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APPENDIX

IN THE

Supreme Court of the United States

October Term, 1974

No. 74-742

FOREMOST-McKESSON, INC.,

Petitioner,

v.

PROVIDENT SECURITIES COMPANY,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

---

Filed December 13, 1974

Petition for a Writ of Certiorari Granted February 18, 1975

TABLE OF CONTENTS

	PAGE
Relevant Docket Entries	A1
Complaint for Declaratory Judgment Under the Federal Securities Exchange Act of 1934	A3
Answer and Counterclaim	A8
Reply to Defendant's Counterclaim	A14
Affidavit of H. J. Ennis	A18
Exhibit A—Letter dated October 16, 1969	A19
Exhibit B—Letter dated October 17, 1969	A20
Exhibit C—Letter dated October 21, 1969	A21
Exhibit D—Memorandum dated October 21, 1969	A22
Affidavit of Wayne D. Hudson	A24
Exhibit A—Purchase Agreement	A35
Exhibit B	omitted
Exhibit C	omitted
Exhibit D—Transcript	A37
Exhibit E	omitted
Exhibit F—Permit	A50
Exhibit G	omitted
Exhibit H	omitted
Exhibit I—Form 3	A53
Exhibit J—Form 4	A55

PAGE

Exhibit K ..... omitted
Exhibit L—Order of Liquidation A56

Excerpts from Defendant's Answers to Request for Admissions A70

Affidavit of Charles De Limur A73
Exhibit A ..... omitted
Exhibit B ..... omitted
Exhibit C—Minutes A85
Exhibit D—Application for Qualification of Securities A89
Exhibit E—Minutes A95
Exhibit F—Minutes A99
Exhibit G—Plan of Complete Liquidation A102
Exhibit H—Dissolution Certificate A108
Exhibit I—Notice A111
Exhibit J—Form S-1 ..... A113
Exhibit K—Form S-1—Amendment No. 1 ..... A115
Exhibit L—Form S-1—Amendment No. 2 ..... A117
Exhibit M—Minutes A118
Exhibit N—Telegram A123
Exhibit O—Agenda A126
Exhibit P—Letter A127
Exhibit Q—Consent A128
Exhibit R—Consent A129

PAGE

Exhibit S—Letter dated October 16, 1969 ..... A130
Exhibit T—Letter dated October 21, 1969 ..... A131
Exhibit U—Letter dated October 24, 1969 ..... A132
Exhibit V—Underwriting Agreement A135
Exhibit W ..... omitted
Exhibit X ..... omitted
Exhibit Y ..... omitted
Exhibit Z ..... omitted
Exhibit AA ..... omitted

Supplemental Affidavit of Charles de Limur A137
Exhibit 1—Study A140
Exhibit 2 ..... omitted

Opinion of the United States District Court for the Northern District of California A154

Judgment of the United States District Court for the Northern District of California A154

Opinion of the United States Court of Appeals for the Ninth Circuit A156

Judgment of the United States Court of Appeals for the Ninth Circuit A156

Relevant Docket Entries

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

DATE	PROCEEDINGS
1970	
3– 3	Filed Complaint, summons issued.
3–19	Filed summons on return, executed 3-17-70.
5–28	Filed Defendant's Answer and Counterclaim.
6–15	Filed Plaintiff's Reply to Defendant's Counterclaim.
1971	
6–14	Filed Plaintiff's Notice of Motion and Motion for Summary Judgment.
	Filed Plaintiff's Memorandum of Points and Authorities in support of Motion for Summary Judgment.
	Filed Affidavit of Charles de Limur in support of Motion for Summary Judgment.
8– 4	Filed Defendant's Memorandum of Points and Authorities in opposition to Plaintiff's Motion for Summary Judgment.
8–16	Filed Plaintiff's Reply Memorandum of Points and Authorities in support of Motion for Summary Judgment.
8–18	Filed Supplemental Affidavit of Charles de Limur.
9–15	Filed Opinion in favor of Plaintiff.

Relevant Docket Entries

DATE	PROCEEDINGS
1971	
9–29	Entered Summary Judgment, filed Sept. 29, 1971, that Provident Securities Company has no liability under Sec. 16(b) of the Securities Exchange Act of 1934 for the sale of Foremost-McKesson, Inc. convertible subordinated debentures in 1969; the motion for partial summary judgment of Foremost-McKesson, Inc. is denied and the motion for summary judgment of Provident Securities Co. is granted and Plaintiff and Counter-defendant shall receive its costs of suit.
10–26	Filed Notice of Appeal.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

1974	
9–19	Filed opinion—affirmed.
9–19	Filed & entered Judgment.

Complaint for Declaratory Judgment Under the Federal Securities Exchange Act of 1934

IN THE

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-70 460 SAW

PROVIDENT SECURITIES COMPANY, a California corporation,
Plaintiff,

v.

FOREMOST-McKESSON, INC., a Maryland corporation,
Defendant.

Plaintiff PROVIDENT SECURITIES COMPANY, a California corporation (hereinafter called "Provident"), complains of FOREMOST-McKESSON, INC., a Maryland corporation (hereinafter called "Foremost"), and avers as follows:

1. This action arises under Section 16(b) of the Securities Exchange Act of 1934, 15 U.S.C. §78p(b) (hereinafter called "Section 16(b)"), and this Court has jurisdiction under said Section 16(b) and under Section 27 of said Act, 15 U.S.C. §78aa, as amended. Most of the acts and transactions involved in this action occurred in the Northern District of California. In addition, Foremost is licensed to do business and is doing business in the Northern District of California.

2. An actual controversy has arisen, and now exists, relating to the rights and duties of the plaintiff and the defendant, and this is an action for a declaratory judgment

pursuant to 28 U.S.C. §2201, for the purpose of determining the rights and duties of the parties in said actual controversy, as hereinafter more fully appears.

3. On or about September 25, 1969, Provident entered into a Purchase Agreement with Foremost (hereinafter called the "Original Purchase Agreement"), whereby certain of Provident's assets were to be sold to Foremost in exchange for cash and 6% Convertible Subordinated Debentures of Foremost, due June 15, 1994 (hereinafter called the "Debentures"). On or about October 15, 1969, the parties re-negotiated the Original Purchase Agreement and executed a Supplement to Purchase Agreement (the Supplement to Purchase Agreement and those provisions of the Original Purchase Agreement not changed by said Supplement to Purchase Agreement are hereinafter called the "Final Purchase Agreement") which materially altered and reduced the purchase price of the Original Purchase Agreement. On October 15, 1969, after the parties agreed to the Final Purchase Agreement, Provident transferred its assets to Foremost and received (i) $4,250,000 cash; (ii) $15,000,000 principal amount of Debentures; and (iii) the right to the proceeds from the public sale of $25,000,000 principal amount of Debentures, the legal title to such Debentures being transferred to Provident on October 15, 1969, for the purpose of a public sale as is hereinafter more fully set forth. In addition, $2,500,000 principal amount of Debentures were placed in escrow to cover claims of Foremost, if any, arising under the Final Purchase Agreement prior to April 15, 1970, after which time the remaining Debentures in escrow will be delivered to Provident. On October 20, 1969, pursuant to the Preliminary Adjusted Balance Sheets as provided for in the Final Purchase Agreement, an additional $7,500,000 principal amount of Debentures were delivered to Provident.

4. At the same time Provident and Foremost entered into the Original Purchase Agreement, said parties also approved a form of underwriting agreement whereby the shareholders of Provident would sell to the public some $25,000,000 principal amount of Debentures as soon as possible after receipt of said Debentures from Foremost. However, after Provident experienced some difficulty in reaching each of its selling shareholders and obtaining their consent to the public offering of their pro rata share of the $25,000,000 principal amount of Debentures, which difficulty it was felt might delay the proposed public offering, and because a few of the shareholders of Provident were minors who could not consent to a public offering of their respective pro rata share of the Debentures, the parties, on or about October 15, 1969, agreed to a transfer of the legal title to said $25,000,000 principal amount of Debentures to Provident who would then proceed with a public sale of said Debentures for the direct benefit of its shareholders. Consequently, under the terms of the Final Purchase Agreement, Foremost agreed to register said $25,000,000 principal amount of Debentures under the Securities Act of 1933 so that a sale thereof could occur as soon as possible after legal title to said Debentures was transferred to Provident.

5. Thereafter, on or about October 21, 1969, Provident, Foremost and the Underwriters executed an Underwriting Agreement whereby the Underwriters agreed to purchase the $25,000,000 principal amount of the Debentures at a net price to Provident of $101.25 per $100 face amount of the Debentures, or a total net price of $25,366,666.66. The Settlement Date for said purchase occurred on October 28, 1969.

6. On the basis of the afore-mentioned transactions, Foremost contends that Provident was a 10% beneficial owner of a class of equity securities of Foremost as a

result of the afore-mentioned transactions, that Provident's purchase price of said Debentures was their face amount, and that Provident is liable to Foremost under Section 16(b) for alleged profits arising out of said transactions, such alleged profits being the amount Provident received for said Debentures over their face amount.

7. Provident, on the other hand, denies that said transactions resulted in any liability under Section 16(b), and contends that Section 16(b) is not applicable to said transactions for the following reasons, among others: (i) Provident did not purchase, within the meaning of Section 16(b), the $25,000,000 principal amount of Debentures which were sold at the public offering and sale; (ii) even if Provident did purchase said $25,000,000 principal amount of Debentures, no profit was realized since the purchase price of said Debentures equalled or exceeded the selling price of said Debentures; (iii) even if Provident did purchase said $25,000,000 principal amount of Debentures Provident was not a 10% beneficial owner of a class of equity securities of Foremost within the meaning of Section 16(b) at the time of the sale of the Debentures; (iv) even if Provident did purchase said $25,000,000 principal amount of Debentures, the purchase and sale of said Debentures was for the direct benefit of Provident shareholders who were not 10% beneficial owners of a class of equity securities of Foremost within the meaning of Section 16(b); (v) even if Provident did purchase said $25,000,000 principal amount of Debentures, both the acquisition and disposition of the $25,000,000 principal amount of Debentures by Provident were part of the consideration of the Final Purchase Agreement and, in effect, part of one transaction which not only was agreed to by Foremost but also directly benefited foremost as much as Provident; and (vi) even if Provident did purchase said $25,000,000 principal amount of Debentures, at no time did, or could Provident have access to

any confidential information of Foremost as a result of said transactions.

8. Because Provident is in the process of dissolving, having elected to wind up and dissolve on September 26, 1969 (the same date it approved the Original Purchase Agreement), and because Provident, on September 26, 1969, adopted a Plan of Complete Liquidation whereby all of its assets, after having paid off or made provision for all claimants, are to be distributed to its shareholders by September 25, 1970, it is necessary for Provident to commence this action for declaratory judgment so as to extinguish the afore-mentioned Section 16(b) claim of Foremost, which claim, in the absence of this action, can be asserted by Foremost or on its behalf by any of its shareholders, at any time within two years of the sale of the Debentures.

WHEREFORE, plaintiff demands that the Court adjudge:

1. That plaintiff has not violated Section 16(b) as a result of the afore-mentioned transactions;

2. That plaintiff is not liable to Foremost for any Section 16(b) profits as a result of the afore-mentioned transactions; and

3. That plaintiff have such other and further relief as the Court shall deem just and proper.

Dated: March 2, 1970.

ROBERT D. RAVEN
DAVID E. BAUDLER
JANET STANSBY
MORRISON, FOERSTER, HOLLOWAY,
CLINTON & CLARK

By Robert D. Raven

Robert D. Raven
Attorneys for Plaintiff
Provident Securities Company

Answer and Counterclaim

IN THE

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C 70 460 SAW

[SAME TITLE]

Defendant Foremost-McKesson, Inc., a Maryland corporation (hereinafter called "Foremost"), for its answer and counterclaim, alleges as follows:

1. Admits the allegations of paragraph 1 of the complaint including the allegation that certain acts and transactions involved in this action occurred in the Northern District of California, except denies knowledge or information sufficient to form a belief as to whether most of the acts and transactions involved in this action occurred in the Northern District of California.

2. Admits the allegations of paragraph 2 of the complaint, except denies that the complaint completely and accurately sets forth the controversy between the parties, as hereinafter more fully appears.

3. Admits the allegations of the first sentence of paragraph 3 of the complaint and refers to the Purchase Agreement for the terms thereof; denies the allegations of the second sentence of paragraph 3 of the complaint, except admits that on or about October 15, 1969, the parties entered into a Supplemental Agreement and refers to said Supplemental Agreement for the terms thereof; denies the allegations of the third sentence of paragraph 3 of the complaint, except admits that on October 15, 1969, Provident transferred its assets (with the exception of certain assets specified in Schedule I to the Purchase Agreement) to Foremost for $4,250,000 in cash and $49,750,000 aggregate principal amount of Debentures, subject to certain adjustments provided for in Section 2 of the Purchase Agreement, and admits that it was contemplated by Provident that there would be a prompt public sale by it or its shareholders of up to $25,000,000 principal amount of said Debentures; denies the allegations of the fourth sentence of paragraph 3 of the complaint except admits that $2,500,000 principal amount of Debentures were placed in Escrow pursuant to Section 2 of the Purchase Agreement; admits the allegations of the fifth sentence of paragraph 3 of the complaint, except denies that an additional $7,500,000 principal amount of Debentures were delivered to Provident on October 20, 1969, and avers that there were delivered on that date an additional $7,250,000 principal amount of Debentures.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 of the complaint, except admits that in Section 5(k) (i) of the Purchase Agreement, it was provided that if Provident requested registration of Debentures under the Securities Act of 1933 in a principal amount up to $25,000,000, Foremost would use its best efforts to effect such registration as expeditiously as practicable and that Foremost would enter into an underwriting agreement in substantially the form of Exhibit D annexed to the Purchase Agreement.

5. Admits the allegations of paragraph 5 of the complaint and avers that the amount of $25,366,666.66 referred to therein includes interest accrued on the Debentures from October 15, 1969, in the amount of $54,166.66.

6. Admits that on the basis of certain transactions partially described in the complaint and further described in the counterclaim herein, Foremost contends that Provident was a 10% beneficial owner of one or more classes of an

equity security of Foremost, and that Provident is liable to Foremost under Section 16(b) for profits arising out of said transactions, but except as so admitted denies each and every allegation of paragraph 6 of the complaint.

7. Denies each and every allegation of paragraph 7 of the complaint, except admits that Provident denies that it has liability under Section 16(b).

8. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation of paragraph 8 of the complaint, except denies that plaintiff's action for declaratory judgment will extinguish Foremost's Section 16(b) claim, and admits that the Section 16(b) claim of Foremost can be asserted by Foremost or on its behalf by any of its shareholders at any time within two years of the sale of the Debentures.

As and for a Counterclaim

9. This counterclaim arises under Section 16(b) of the Securities Exchange Act of 1934 (15 U.S.C. §78p(b)) (herein called Section 16(b)) and the Court has jurisdiction under said Section 16(b) and under Section 27 of said Act (15 U.S.C. §78aa) as well as ancillary jurisdiction.

10. Realleges with the same force and effect paragraphs 1 through 8.

11. At all times between September 25, 1969, and October 30, 1969, there were not less than 11,111,754 and not more than 11,211,027 issued and outstanding shares of common stock of Foremost.

12. The aggregate principal amount of Debentures authorized to be issued under the Indenture dated October 15, 1969, was $49,750,000. Said amount constituted the entire class of Debentures. Such Debentures were convertible into 1,622,636 shares of common stock.

13. By its purchase under the Purchase Agreement, dated September 25, 1969, of $49,750,000 aggregate principal amount of Debentures, convertible into 1,622,636 shares of common stock ($40,000,000 principal amount of which, convertible into 1,304,632 shares of common stock, were delivered to Provident on October 15, 1969; $2,500,000 principal amount of which, convertible into 81,539½ shares of common stock, were on said date delivered on Provident's behalf to Bank of America National Trust & Savings Association as Escrow Agent; and an additional $7,250,000 principal amount of which, convertible into 236,464½ shares of common stock, were delivered to Provident on October 20, 1969) Provident became the holder of more than 10% of one or more classes of an equity security of Foremost.

14. In its Form 3 statement dated October 31, 1969, filed under Section 16(a) of the Securities Exchange Act of 1934 (15 U.S.C. §78p(a)), Provident reported the acquisition of $47,250,000 principal amount of said Debentures "pursuant to a Purchase Agreement dated September 25, 1969, between the Issuer and the Undersigned."

15. On September 25, 1969, a hearing was held in San Francisco by the Department of Corporations of the State of California in connection with the Application of Foremost for a Permit from the Department of Corporations to issue the Debentures of Foremost to Provident in connection with the acquisition by Foremost of the assets of Provident. At said Hearing, it was stated by Provident's financial advisor that the valuation of the assets of Provident to be purchased by Foremost was $54,000,000, and that said amount payable in cash and Debentures under the Purchase Agreement was a fair price for those assets.

16. The Permit to offer, sell and issue the Debentures "for the consideration, uses and purposes, and in the man-

ner set forth in said application" was issued to Foremost on September 30, 1969. On the same date the Commissioner of Corporations of the State of California issued a Certification of Issuance of Permit which contained his certification that "After said hearing [the hearing of September 25, 1969], the terms and conditions of the proposed issuance and exchange of the aforesaid securities and the fairness thereof were approved, and a permit authorizing the proposed exchange of securities was issued to Foremost-McKesson, Inc. on September 30, 1969."

17. As the Purchase Agreement contemplated a public sale of $25,000,000 principal amount of Debentures promptly after October 15, 1969, and, as such sale would of necessity require the payment of an underwriting commission by Provident, the proceeds to Provident of the sale of the assets transferred by it to Foremost in purchase of the Debentures was the aforesaid $54,000,000, less the contemplated underwriting commission of $312,500 (1¼% of $25,000,000).

18. Provident's purchase price of the $25,000,000 principal amount of Debentures was no more than $25,000,000 less the underwriting commission of $312,500 or $24,687,500.

19. Within six months of the aforesaid purchase, Provident sold $25,000,000 principal amount of Debentures at a net price to Provident of $101.25 per $100 face amount plus interest accrued on said Debentures from October 15 in the amount of $54,166.66, or a total net price of $25,366,-666.66.

20. At the time of such sale, Provident was the beneficial owner of more than 10% of one or more classes of an equity security of Foremost registered pursuant to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. §78(e)).

21. In its Form 4 statement, dated October 31, 1969, filed under Section 16(a) of the Securities Exchange Act of 1934 (15 U.S.C. §78(a)), Provident reported the sale of $25,000,000 principal amount of Debentures on October 21, 1969, and the distribution to shareholders of $22,227,000 principal amount of other of the Debentures on October 24, 1969.

22. Upon the aforesaid purchase and sale of $25,000,000 principal amount of Debentures within a period of six months, Provident realized a profit.

WHEREFORE, defendant demands that the Court adjudge:

1. That plaintiff has violated Section 16(b) as a result of the transactions set forth in the complaint and herein;

2. That plaintiff turn over to defendant all plaintiff's Section 16(b) profit resulting from the aforementioned transactions;

3. That the complaint be dismissed; and

4. That defendant have such other and further relief, including the award of attorneys' fees, interest and costs, as the Court shall deem just and proper.

Dated: May 28, 1970

EDWARD D. LANDELS
PHILIP E. DIAMOND
LANDELS, RIPLEY & DIAMOND

By Philip E. Diamond

Attorneys for Defendant
Foremost-McKesson, Inc.

(Affidavit of Service omitted in printing.)

Reply to Defendant's Counterclaim

IN THE

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-70 460 SAW

[SAME TITLE]

Plaintiff PROVIDENT SECURITIES COMPANY (hereinafter "plaintiff") for its reply to the Counterclaim of defendant FOREMOST-MCKESSON, INC. (hereinafter "defendant"), admits, denies and avers as follows:

1. Admits the averments of Paragraph 9 thereof.

2. Admits that defendant makes the admissions and denials of the allegations of plaintiff's Complaint herein, which are contained in Paragraphs 1-8 of defendant's Answer herein and are realleged by the provisions of Paragraph 10 of his Counterclaim. Plaintiff further admits that there were delivered on October 20, 1969, an additional $7,250,000 principal amount of Debentures; and admits the averment contained in Paragraph 5 of the Answer that the amount of $25,366,666.66 referred to in Paragraph 5 of the Complaint includes interest accrued on the Debentures from October 15, 1969, in the amount of $54,166.66.

3. In reply to the averments of Paragraph 11, plaintiff has no knowledge or information sufficient to form a belief as to the truth of such averments.

4. In reply to the averments of Paragraph 12 of the Counterclaim, plaintiff admits that the aggregate principal amount of Debentures authorized to be issued under the Indenture dated October 15, 1969, was $49,750,000; and admits that said Debentures were convertible into 1,622,636 shares of common stock. Plaintiff has no knowledge or

Reply to Defendant's Counterclaim

information sufficient to form a belief as to the truth of the remaining averments of said paragraph.

5. In reply to the averments of Paragraph 13 of the Counterclaim, plaintiff admits that the $49,750,000 aggregate principal amount of Debentures which were the subject of the Purchase Agreement dated September 25, 1969, as renegotiated and supplemented on October 15, 1969 (said Purchase Agreement as renegotiated and supplemented is hereinafter sometimes referred to as the "Purchase Agreement"), were convertible into 1,622,636 shares of common stock; admits that $40,000,000 principal amount of said Debentures were convertible into 1,304,632 shares of common stock; admits that $40,000,000 principal amount of said Debentures were delivered to plaintiff on October 15, 1969; admits that $2,500,000 principal amount of said $49,750,000 aggregate principal amount of Debentures were convertible into 81,539.5 shares of common stock; admits that said $2,500,000 principal amount of Debentures were delivered to the Bank of America National Trust and Savings Association on October 15, 1969, as escrow agent; admits that $7,250,000 principal amount of said $49,750,000 aggregate principal amount of Debentures were convertible into 236,464.5 shares of common stock; admits that said $7,250,000 principal amount of Debentures were delivered to plaintiff on October 20, 1969. Except as so admitted plaintiff denies each and every averment of said Paragraph 13 of the Counterclaim. In addition, plaintiff specifically denies that it purchased, under the Purchase Agreement, or otherwise, within the meaning of Section 16(b) of the Security Exchange Act of 1934 (15 U.S.C. §78(p)), $49,750,000 aggregate principal amount, or any other amount, of Debentures. Plaintiff also specifically denies that it became the holder of more than 10% of one or more classes of any equity security of defendant, within the meaning of said Section 16(b).

Reply to Defendant's Counterclaim

6. Plaintiff admits the averments of Paragraphs 14 and 16 of the Counterclaim.

7. In answer to the averments of Paragraph 15 of the Counterclaim, plaintiff admits the averments contained in the first sentence of said paragraph but denies that the averments contained in the second sentence of said paragraph accurately, fully, or fairly state the testimony of the witnesses at said hearing.

8. In answer to the averments of Paragraph 17, plaintiff admits that the Purchase Agreement contemplated a public sale of $25,000,000 principal amount of Debentures promptly after the date of closing under that agreement. Except as so admitted plaintiff denies each and every averment contained in said Paragraph 17 of the Counterclaim.

9. In reply to the averments of Paragraph 18 of the Counterclaim, plaintiff denies that it purchased $25,000,000 principal amount or any other amount of Debentures within the meaning of Section 16(b), and denies each and every averment contained in Paragraph 18 of the Counterclaim.

10. In reply to the averments of Paragraph 19 of the Counterclaim, plaintiff admits that within six months after October 15, 1969, $25,000,000 principal amount of Debentures were sold at a price of $101.25 per $100 face amount, plus interest accrued on said Debentures from October 15, 1969 to October 28, 1969 in the amount of $54,166.66; and admits that the total of these two sums is $25,366,666.66. Except as so admitted plaintiff denies each and every averment contained in said paragraph.

11. Plaintiff denies the averments of Paragraph 20 of the Counterclaim.

Reply to Defendant's Counterclaim

12. In answer to the averments of Paragraph 21 of the Counterclaim, plaintiff admits that it filed a Form 4 statement, dated October 31, 1969, under Section 16(a) of the Securities Exchange Act of 1934 (15 U.S.C. §78(a)) reporting the sale of $25,000,000 principal amount of Debentures pursuant to an Underwriting Agreement dated October 21, 1969, and the delivery to shareholders of $22,227,000 principal amount of other of the Debentures on October 24, 1969. Except as so admitted plaintiff denies the averments of said Paragraph 21.

13. In reply to the averments of Paragraph 22 of the Counterclaim, plaintiff denies that it participated in a purchase or sale within the meaning of Section 16(b) as alleged herein; and denies each and every averment contained in said Paragraph 22.

WHEREFORE, plaintiff demands that the Court adjudge:

1. That defendant's Counterclaim herein be dismissed;

2. That such further relief be granted as is requested in plaintiff's complaint herein.

Dated: June 15, 1970.

ROBERT D. RAVEN
DAVID E. BAUDLER
HALEY J. FROMHOLZ
MORRISON, FOERSTER, HOLLOWAY, CLINTON & CLARK

By /s/ HALEY J. FROMHOLZ

Haley J. Fromholz
Attorneys for Plaintiff
Provident Securities Company

(Certificate of Service omitted in printing.)

Affidavit of H. J. Ennis

IN THE

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-70 460

[SAME TITLE]

State of New York)
County of New York) ss.:

H. J. ENNIS, being duly sworn, deposes and says:

I am an Assistant Trust Officer of First National City Bank, 111 Wall Street, New York, New York, and in that capacity was concerned with the issuance and delivery of the 6% Convertible Subordinated Debentures due June 15, 1994 of Foremost-McKesson, Inc. ("Foremost") under the Indenture between Foremost and First National City Bank dated as of October 15, 1969. I am also in charge of, and familiar with, the file maintained by the Trustee with respect to such Debentures.

Annexed hereto as Exhibits A, B and C are letters of October 16, 17 and 21, 1969 addressed to the First National City Bank from Provident Securities Company signed by Charles DiLimur, President. Said Exhibits are true copies of original letters received by the Trustee and which are presently maintained in the file of the Trustee. Annexed hereto as Exhibit D is a true copy of an original memorandum of October 21, 1969 prepared and signed by me and which is maintained in the Trustee's file.

H. J. Ennis

(Jurat omitted in printing.)

Exhibit A Annexed to Affidavit of H. J. Ennis

Letter

PROVIDENT SECURITIES COMPANY
1 Montgomery Street, Room 907
San Francisco, Calif. 94104

October 16, 1969

First National City Bank
111 Wall Street
New York, N. Y.

Gentlemen:

The undersigned hereby directs you as Trustee under that certain Indenture dated as of October 15, 1969 between you and Foremost-McKesson, Inc. and under which $40,000,000 principal amount of 6% Convertible Subordinated Debentures of Foremost-McKesson, Inc. were issued on October 15, 1969 to exchange the certificates evidencing said $40,000,000 Debentures for two certificates, one evidencing $25,000,000 principal amount and the other evidencing $15,000,000 principal amount, both such certificates to continue to be held by you subject to our further order.

Very truly yours,

Charles de Limur
President

Exhibit B Annexed to Affidavit of H. J. Ennis

Letter

PROVIDENT SECURITIES COMPANY
1 Montgomery Street, Room 907
San Francisco, Calif. 94104

October 17, 1969

First National City Bank
111 Wall Street
New York, New York 10005

Gentlemen:

The undersigned hereby directs you as Trustee under that certain indenture dated as of October 15, 1969, between you and Foremost-McKesson, Inc., and under which $7,250,000 principal amount of 6% Convertible Subordinated Debentures of Foremost-McKesson, Inc. are to be issued on October 20, 1969, to hold said debentures after their issue for the account of the undersigned subject to its further order.

Very truly yours,

PROVIDENT SECURITIES COMPANY

By Charles de Limur

Charles de Limur
President

Exhibit C Annexed to Affidavit of H. J. Ennis

Letter

PROVIDENT SECURITIES COMPANY
1 Montgomery Street, Room 907
San Francisco, Calif. 94104

October 21, 1969

First National City Bank
111 Wall Street
New York, New York

Gentlemen:

You now hold two certificates in the principal amounts of $15,000,000 and $7,250,000, respectively, which aggregate $22,250,000, of Foremost-McKesson, Inc. 6% Convertible Subordinated Debentures issued under that certain Indenture dated as of October 15, 1969, between you, as Trustee, and Foremost-McKesson, Inc., pending further instructions for distribution.

You are hereby directed to exchange said Debentures against the issuance of a like aggregate principal amount of Debentures in the names of the persons listed in the attached Schedule and in the principal amounts indicated after the name of each such person, for delivery by mail to such persons on October 24, 1969.

Very truly yours,

PROVIDENT SECURITIES COMPANY

By Charles de Limur

Charles de Limur
President

Exhibit D Annexed to Affidavit of H. J. Ennis

Memorandum

October 21, 1969

MEMORANDUM TO:

MESSRS: T. MINORI, ASSISTANT CASHIER
T. SATTERLEE, ASSISTANT CASHIER
W. DE SALVATORE, OFFICIAL ASSISTANT
J. RECCO, OFFICIAL ASSISTANT
C. KENDELHARDT, OFFICIAL ASSISTANT

RE: FOREMOST-MCKESSON, INC.
6% CONVERTIBLE SUBORDINATED DEBENTURES
DUE JUNE 15, 1994

Please be advised that Debenture No. RB-1 in the amount of $40,000,000, and registered in the name of Provident Securities Company should be split into two pieces in the respective amounts of $15,000,000 and $25,000,000. The Debenture for $25,000,000 is to be registered in the name of Dillon, Read & Co., and the Debenture for $15,000,000 principal amount is to be registered in the name of Provident Securities Company.

We will receive, either today or tomorrow, instructions from Provident Securities regarding the transfer of Debenture No. RB-3 in the principal amount of $7,250,000 and the Debenture in the principal amount of $15,000,000 referenced above, into the names of approximately forty shareholders. These Debentures are to be ready for issuance on Friday, October 24.

On October 23, we will receive registration instructions from Dillon, Read & Co. pertaining to the public issuance of the $25,000,000 Debenture registered in their name. The Debentures prepared from these instructions are to be ready for packaging by the underwriters on the afternoon

of October 27 for subsequent issuance at the Closing on October 28.

Debenture No. RB-2 registered in the name of Bank of America, will not be affected at this time.

Should you have any questions regarding this matter, please do not hesitate to contact the undersigned.

H. J. ENNIS

H. J. Ennis
Assistant Trust Officer

Affidavit of Wayne D. Hudson

IN THE

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-70 460 GSL

[SAME TITLE]

State of California)
City and County of San Francisco) ss.:

Wayne D. Hudson, being duly sworn, deposes and says:

1. I am Vice President, General Counsel and Secretary of Foremost-McKesson, Inc. ("Foremost"). I make this affidavit in support of Foremost's motion for partial summary judgment on its counterclaim that Provident Securities Company ("Provident") has violated Section 16(b) of the Securities Exchange Act of 1934, as a result of certain transactions set forth below and in the complaint and answer and counterclaim filed herein, and is liable for the profit realized thereby.

I participated directly in the negotiations and other transactions set forth below out of which this action arises and state the following facts to be true on the basis of my own personal knowledge, except for those facts specifically stated to be based on statements of Provident contained in the pleadings of this action or of a proceeding in the California Superior Court, San Francisco County, or based on the annexed affidavit of H. J. Ennis, sworn to May 26, 1970.

2. In the afternoon of September 25, 1969, a Purchase Agreement of the same date was executed and delivered by

Foremost and Provident. That Agreement is annexed hereto as Exhibit A. In substance, the Purchase Agreement (Section 1) provided for the sale to Foremost of all of the properties and assets of Provident, except for certain assets set forth in Schedule I annexed thereto, for a purchase price "consisting of (i) $49,750,000.00 aggregate principal amount of the Purchaser's [Foremost's] 6% Convertible Subordinated Debentures due June 15, 1994 * * * and (ii) $4,250,000.00 in cash."

The assets sold to Foremost included, among other things, real estate assets of Provident and 38.9% of the stock of an entity entitled Crocker Estate Company which in turn owned real estate and securities. The assets also included certain securities which were not otherwise readily marketable, including the securities (other than Ambord Corp.) listed on Schedule V to the Purchase Agreement. The value of these securities, the above described real estate assets and the stock of Crocker was no less than $25,801-940.00. However, the nature and value of all these assets were best known by Provident.

3. Foremost had authorized on September 24, 1969, the issuance of aggregate principal amount of $49,750,000.00 of 6% Convertible Subordinated Debentures due June 15, 1994 (the Debentures). Such Debentures, under the provisions of Article Five of the Indenture dated as of October 15, 1969, between Foremost and First National City Bank, as Trustee, annexed hereto as Exhibit C, were convertible initially into 1,622,636 shares of Common Stock of Foremost. Such stock was and is registered pursuant to Section 12 of the Securities Exchange Act of 1934.

4. Provident negotiated to include in the Purchase Agreement, and the Purchase Agreement did therefore include, provisions contemplating that there could be a sale

by Provident or its shareholders of up to $25,000,000.00 aggregate principal amount of the Foremost Debentures promptly after the date of closing (see, in particular, Section 5(k) of the Purchase Agreement). Provident sought to have a Registration Statement become effective as soon as possible after the closing under the Purchase Agreement scheduled for October 15, 1969 (see Section 2 of the Purchase Agreement and paragraph 8 of Provident's Reply herein, filed June 15, 1970). Section 5(k)(i) of the Purchase Agreement obligated Foremost, when such Registration was effected, to "enter into an Underwriting Agreement in substantially the form of Exhibit D annexed" [to the Purchase Agreement]. Such Underwriting Agreement form as annexed to the Purchase Agreement is annexed hereto as Exhibit B. It contemplates that Dillon, Read & Co., Inc. and others not yet specified would underwrite a public offering of $25,000,000.00 principal amount of the Debentures on behalf of "selling debenture holders" not specifically identified and that the underwriters would receive an underwriting commission based on a percentage of such principal amount.

5. The conversion price for the Debentures was set in the Purchase Agreement as 15% above the average of the closing prices on the New York Stock Exchange of the Common Stock of Foremost on the ten trading days immediately preceding the third business day prior to the closing date, October 15, "provided that if such average is less than $24 per share, such conversion price shall be 15% (to the nearest cent) above $24 per share and if such average is more than $30 per share, such conversion price shall be 15% (to the nearest cent) above $30 per share." (Section 5(m).)

6. On September 25, 1969, a hearing was held in San Francisco by the Department of Corporations of the State

of California in connection with the Application of Foremost for a Permit from that Department to issue the above-described Debentures in connection with its acquisition of the assets of Provident. I attended such hearing and a copy of the transcript of that hearing which correctly reflects those proceedings is attached hereto as Exhibit D. At page 11 of that transcript, Mr. John Haskell, Jr., a partner of Dillon Read & Co., Provident's financial advisor, testified that as to certain calculations as a result of which "you come up with a valuation of $54,000,000.00. And that is the valuation on the assets to be purchased by Foremost-McKesson • • • •" At page 16 Mr. Haskell further stated, when questioned as to whether the transaction was fair, just and equitable to the shareholders of Provident:

> "We think it's fair because we think that based on our experience and a review of the assets of this Company [Provident] we are getting a fair price for these assets."

7. The Permit to offer, sell and issue the Debentures "for the consideration, uses and purposes, and in the manner set forth in said application" was issued to Foremost on September 30, 1969. On the same date the Commissioner of Corporations of the State of California issued a Certification of Issuance of Permit which contained his certification that "After said hearing [the hearing of September 25, 1969], the terms and conditions of the proposed issuance and exchange of the aforesaid securities and the fairness thereof were approved, and a permit authorizing the proposed exchange of securities was issued to FOREMOST-MCKESSON, INC. on September 30, 1969." (The Certificate and Permit are annexed hereto as Exhibits E and F.)

8. In its answer dated July 13, 1970, to Foremost's Request for Admissions, paragraph 1, Provident states that

its Board of Directors adopted a resolution on October 13, 1969, with respect to the distribution of the Foremost Debentures to be received pursuant to the Purchase Agreement. A copy of the salient portions of that resolution, admitted by Provident to be accurate, is annexed hereto as Exhibit G. In short, the resolution provides that Provident would "distribute pro rata to shareholders of record upon dates established by ['the proper officers of the Corporation'] * * * as expeditiously as possible, the Foremost-McKesson, Inc. Convertible Subordinated Debentures as received." Such resolution did not fix any date for the contemplated distribution and it was in fact never implemented in the manner expressed therein; for example, $25,000,000.00 principal amount of Debentures which, according to the resolution, were supposed to be distributed at such vague future time as unnamed officers might select, were never so distributed at all but were instead sold by Provident directly to the underwriters. (Answer to Request for Admissions, Par. 6; Answer dated September 17, 1970 to Foremost's Interrogatory 4(a)). A later resolution of the Provident Board of Directors on December 9, 1969 in effect rescinded the earlier resolution in that it "ratified and approved" the "distribution to shareholders in cash and securities made to date." (Answer to Interrogatory 1).

9. In the afternoon and evening of October 14, the day before closing, the representatives of Foremost and Provident had many extended telephone conversations concerning certain differences that had arisen in respect of whether Provident had complied with certain of its representations and warranties and whether certain of the conditions to Foremost's obligation to close had been met by Provident. Such discussions continued on the morning of the closing. To resolve such matters, the parties on October 15, 1969, entered into a Supplemental Agreement, the

effects of which were some minor adjustments in the assets to be transferred, and an agreement that an appraisal be made of the value of one asset, which could have resulted in a reduction of the purchase price of no more than $72,000.00.

10. On October 15, 1969 the parties held the closing under the Purchase Agreement, as amended. At the closing, Foremost delivered to Provident a check for $4,250,000.00 and a Debenture certificate in the principal amount of $40,000,000.00, convertible under the formula set forth in Article Five of the Indenture (Exhibit C) into 1,303,632 shares of Common Stock of Foremost (Reply, Par. 5), constituting more than 10% of the total outstanding as noted below. (See Par. 12.) Foremost also delivered at the same time on Provident's behalf to the Bank of America National Trust & Savings Association, as Escrow Agent, a Debenture certificate in the amount of $2,500,000.00, convertible into 81,539½ shares of Common Stock of Foremost. (Reply, Par. 5). Pursuant to the provisions of Section 2(f) of the Purchase Agreement (Exhibit A) it was thereafter determined that the preliminary purchase price was at least $54,000,000.00. Based thereon, an additional Debenture certificate in the principal amount of $7,250,000.00, convertible into 236,464½ shares of Common Stock of Foremost, was delivered by Foremost to Provident on October 20, 1969. (Reply, Par. 2, 5).

11. The actual proceeds to Provident from the sale of the assets transferred by it to Foremost in purchase of the Debentures equalled $54,000,000.00 less the underwriting commission anticipated to be paid in the public offering of 1¼% of $25,000,000.00 or $312,500.00. (See Par. 14 below) $2,500,000.00 principal amount of Debentures were deposited in escrow pursuant to the Escrow Agreement (Exhibit C to the Purchase Agreement). As at this date there is

still retained in escrow pending final determination of a claim arising out of the sale of assets $691,000.00 principal amount of Debentures.

12. At all times between September 25, 1969, and October 30, 1969, there were not less than 11,111,754 and not more than 11,211,027 issued and outstanding shares of Common Stock of Foremost. The 1969 Annual Report of Foremost stated that as of March 31, 1969, there were 11,033,000 shares of Foremost Common Stock issued. As a matter of computation based on the standards set forth in Rule 16a-2(a) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, ten percent of the class of common stock from September 25, 1969, through October 30, 1969, would never have been less than 1,111,175, nor more than 1,121,103. The $49,750,000.00 aggregate principal amount of Debentures sold to Provident constituted the entire class of such Debentures and were convertible into 1,622,636 shares of common stock, and the $40,000,000.00 principal amount of Debentures delivered to Provident on October 15, 1969, were convertible into 1,304,632 such shares. (See Reply ¶¶4, 5)

13. Provident by letter dated October 16, 1969, directed the First National City Bank, Trustee under the Indenture (Exhibit C) to exchange the certificates evidencing the $40,000,000.00 Debentures for two certificates, one for $25,000,000.00 and the other for $15,000,000.00 "both such certificates to be continued to be held by you subject to our further order." (Answer to Request for Admissions, ¶10; Answer to Interrogatory 5; Ennis affidavit, Exhibit A.) Moreover, Provident directed First National City Bank by letter of October 17, 1969 to hold the $7,250,000.00 principal amount of Debentures after their issue "for the account of the undersigned, subject to its further order". (Answer to

Request for Admissions, ¶11; Answer to Interrogatory 6; Ennis affidavit, Exhibit B.)

14. The Underwriting Agreement between the Underwriters, Provident and Foremost, providing for the sale by Provident of $25,000,000.00 principal amount of Debentures to the Underwriters was signed and delivered on October 21, 1969. (Answer to Request for Admissions, ¶4). The price to be paid by the Underwriters to Provident, as reflected in the Underwriting Agreement, annexed hereto (in the form signed on October 21, 1969) as Exhibit H, had been negotiated in San Francisco on October 20, 1969 after the close of the New York Stock Exchange. (Answer to Request for Admissions, ¶5.) This price to Provident was fixed at 101¼% of the aggregate principal amount of the Debentures to be sold (amounting to $25,312,500.00), plus interest accrued from October 15, 1969 to the date of closing, amounting to $54,166.66. (Answer to Request for Admissions, ¶5.)

15. Provident delivered to the Trustee on October 22, 1969, a letter dated the previous day directing the Trustee to distribute on October 24, 1969, the other $22,250,000.00 aggregate principal amount of Debentures received from Foremost to the shareholders of Provident. (Answer to Request for Admissions, ¶12; Answer to Interrogatory 7.)

16. On October 24, 1969, $22,227,000.00 aggregate principal amount of the Debentures were mailed by the Trustee to the shareholders of Provident (Answer to Request for Admissions, ¶13.) In addition, $23,000.00 principal amount of the Debentures, representing fractional shares, were still being held by Provident for the benefit of its shareholders as of April 21, 1970. (Answer to Request for Admissions, ¶14.)

17. The closing under the Underwriting Agreement was held on October 28, 1969 and, pursuant to that Agreement, $25,000,000.00 aggregate principal amount of the Debentures were transferred by Provident to the Underwriters. Provident received a check from the Underwriters at that time in the amount of $25,366,666.66. (Answer to Request for Admissions, ¶¶6, 8.)

18. Thereafter, Provident filed a Form 3 and a Form 4 both dated October 31, 1969, pursuant to the requirements of Section 16(a) of Securities Exchange Act of 1934 and Rule 16a-1 adopted thereunder, applicable to direct or indirect beneficial owners of more than 10% of any class of any registered equity security. (Answer to Requests for Admissions, ¶¶15, 16; Answer to Interrogatories 8 and 9.) Copies of such forms are annexed hereto as Exhibits I and J respectively. The Form 3 reported the acquisition of $47,250,000.00 aggregate principal amount of Debentures pursuant to the September 25, 1969 Purchase Agreement. The Form 4 reported (1) the sale as of October 21, 1969, of $25,000,000.00 aggregate principal amount of the Debentures to shareholders of Provident; (2) the distribution of $22,227,000.00 principal amount of Debentures on October 24, 1969, "as a liquidating dividend to shareholders of the Undersigned"; and (3) the retention of $23,000.00 principal amount of Debentures.

19. On August 14, 1970, after the commencement of the present action, Provident filed in the California Superior Court, City and County of San Francisco, a Report and Petition with respect to its Winding Up and Dissolution. A copy of that document is annexed hereto as Exhibit K. In that Petition, Provident described this litigation (¶¶2-5, ¶13), and asked that $312,500.00 be set aside in a liquidating trust "to cover any award of damages to Foremost from

the section 16(b) claim." (¶13) Provident stated that "such sum represents the amount that was received from the sale of the Debentures in excess of their face amount." By order filed August 31, 1970, annexed hereto as Exhibit L, the Honorable Robert W. Merrill, "without deciding the merits of any such claims", required that $804,000. be set aside "for Foremost's Section 16(b) claim." (¶14)

/s/ WAYNE D. HUDSON

Wayne D. Hudson

(Jurat omitted in printing.)

Exhibit A Annexed to Affidavit of Wayne D. Hudson

Purchase Agreement

(See Opposite ☞)

[CONFORMED COPY]

PURCHASE AGREEMENT

between

FOREMOST-McKESSON, INC.

and

PROVIDENT SECURITIES COMPANY

AGREEMENT, dated September 25, 1969, between FOREMOST-McKESSON, INC., a Maryland corporation (herein called the "Purchaser"), and PROVIDENT SECURITIES COMPANY, a California corporation (herein called the "Seller"),

WITNESSETH:

WHEREAS, the Seller desires to sell to the Purchaser and the Purchaser desires to buy from the Seller certain of the Seller's properties and assets as hereinafter described;

NOW, THEREFORE, IT IS AGREED:

1. Subject to the terms and conditions contained in this Agreement, and in consideration of the purchase price to be paid as provided in Section 2 hereof, the Seller agrees to convey, sell, assign and transfer to the Purchaser on the Closing Date all of the properties and assets of the Seller of every kind and nature, except the assets set forth on Schedule I annexed hereto which are specifically excluded, and the Purchaser agrees to pay the Seller therefor a purchase price (subject to adjustment, and payable in the manner, specified in Section 2 hereof) consisting of (i) $49,750,000 aggregate principal amount of the Purchaser's 6% Convertible Subordinated Debentures due June 15, 1994 (herein called the "Debentures") to be issued under an Indenture substantially in the form of Exhibit A annexed hereto, and (ii) $4,250,000 in cash.

2. (a) The closing hereunder shall take place at the offices of the Purchaser at 111 Pine Street, San Francisco, California 94111 at 11:00 A.M., San Francisco time, on October 15, 1969, or at such other time and place as shall be mutually agreed to by the parties hereto in writing (herein called the "Closing Date"). At the closing, the Purchaser shall deliver (i) to the Seller $40,000,000 aggregate principal amount of the Debentures, a certified check of the Purchaser in San Francisco Clearing House funds in the amount of $4,250,000 and a written assumption of liabilities in substantially the form of Exhibit B annexed hereto and (ii) to Bank of America, National Trust & Savings Association, as Escrow Agent under an Escrow Agreement (herein called the "Escrow Agreement") substantially in the form of Exhibit C annexed hereto, Debentures in the aggregate principal amount of $2,500,000, against delivery by the Seller to the Purchaser of appropriate assignments, bills of sale, deeds and other documents of title necessary in the opinion of counsel for the Purchaser to convey, assign and transfer the property and assets of the Seller agreed to be conveyed, assigned and transferred hereunder. All real property to be conveyed hereunder shall be conveyed by grant deeds. The Debentures placed in escrow and moneys received in respect thereof shall be held, invested and disposed of as provided in the Escrow Agreement.

(b) The Seller will also from time to time, at the Purchaser's request, execute and deliver such further instruments of conveyance, assignment and transfer and will take such other action as the Purchaser may reasonably request for the more effective conveyance, assignment and transfer to the Purchaser of any of the property and assets to be conveyed, assigned and transferred hereunder and the Seller will lend all reasonable assistance to the Purchaser in the collection and reduction to possession of such property and assets.

EXHIBIT A

(c) The Seller at its expense shall cause to be prepared on an accrual basis and delivered to the Purchaser and Haskins & Sells as soon as practicable after the Closing Date (i) a balance sheet of the Seller as of the time immediately prior to the closing on the Closing Date, certified by John F. Forbes & Company (herein called the "Closing Balance Sheet of the Seller"), and (ii) a balance sheet of Crocker Estate Company, a California corporation (herein called "Crocker"), as at the close of business on September 30, 1969, certified by Arthur Young & Company (herein called the "Closing Balance Sheet of Crocker", the Closing Balance Sheet of the Seller and the Closing Balance Sheet of Crocker being herein collectively called the "Closing Balance Sheets"). As used in this Agreement, unless the context otherwise requires, the term Seller shall be deemed to include the Seller's subsidiaries and the term Crocker shall be deemed to include Crocker's subsidiaries. The Seller shall permit Haskins & Sells to review, and the Purchaser at its expense shall cause Haskins & Sells to review after receipt of the Closing Balance Sheets, the financial statements and books and records of the Seller and Crocker relating to the Closing Balance Sheets and the Seller shall request the certifying accountants to permit Haskins & Sells to review their working papers relating to the Closing Balance Sheets. The Adjusted Stockholders' Equity of the Seller and the Adjusted Stockholders' Equity of Crocker (as defined in subparagraphs (iii) and (iv) of paragraph (d) of this Section 2) shall be concurred in by Haskins & Sells. The Purchaser shall use its best efforts to cause Haskins & Sells within 30 days after receipt of the Closing Balance Sheets and the related working papers of the certifying accountants to (i) advise the Purchaser of their agreement to the Adjusted Stockholders' Equity of the Seller and the Adjusted Stockholders' Equity of Crocker as derived from the respective Closing Balance Sheets or (ii) advise the appropriate certifying accountants of any disagreement with respect thereto, by furnishing such certifying accountants with the specific items of disagreement together with the evaluation thereof and the reasons therefor. In the event of a disagreement between the certifying accountants and Haskins & Sells with respect to the Adjusted Stockholders' Equity, the certifying accountants and Haskins & Sells as soon as practicable shall submit the questions upon which they disagree to a third firm of independent public accountants selected jointly by them and the determination of such third firm as to such questions shall be final. As soon as the certifying accountants and Haskins & Sells agree as to the Adjusted Stockholders' Equity of the Seller and Crocker (which agreement as to questions in dispute shall be based upon the decision of said third firm), they shall promptly advise the Seller and the Purchaser thereof in writing. Each Closing Balance Sheet shall be certified to the Seller or Crocker, as the case may be, and to the Purchaser, by the aforesaid certifying accountants as presenting fairly the financial position of the Seller or Crocker, as the case may be, as of the time immediately prior to the closing on the Closing Date or at the close of business on September 30, 1969, as the case may be, in accordance with generally accepted accounting principles applied on a basis consistent with the balance sheets of the Seller and Crocker as at December 31, 1968 referred to in Section 3(c) hereof.

(d) The purchase price referred to in Section 1 hereof shall be adjusted as follows:

(i) The purchase price shall be increased by the amount by which the market value of the Portfolio of Marketable Securities of the Seller at the close of business on the Closing Date exceeds $23,850,000 or, if $23,850,000 exceeds such value, shall be reduced by the amount by which $23,850,000 exceeds such value. For the purpose of this subparagraph (i) the Portfolio of Marketable Securities of the Seller shall mean the Marketable Stocks (as such term is used in the balance sheet of the Seller as at June 30, 1969 referred to in Section 3(c) hereof) of the Seller on the Closing Date other than the securities referred to in Schedule I annexed hereto.

(ii) The purchase price shall be increased by 38.9% of the amount by which the market value of the Portfolio of Marketable Securities of Crocker at the close of business on the Closing Date exceeds $12,250,000 or, if $12,250,000 exceeds such value, shall be reduced by 38.9% of the amount by which $12,250,000 exceeds such value. For the purpose of this subparagraph (ii) the Portfolio of Marketable Securities of Crocker shall mean the Marketable Corporate Stocks (as such term is used in the balance sheet of Crocker as at July 1, 1969 referred to in Section 3(c) hereof) of Crocker on the Closing Date plus the proceeds of any sales by Crocker, and less the cost of any

purchases by Crocker, of any Marketable Corporate Stocks between September 30, 1969 and the close of business on the Closing Date.

(iii) The purchase price shall be increased by the amount by which the Adjusted Stockholders' Equity of the Seller (herein defined to mean the Stockholders' Equity as shown on the Closing Balance Sheet of the Seller after excluding the cost of investment in Marketable Stocks, office furniture and fixtures net (Provident only), any proceeds from the sale of the assets referred to in Schedule I annexed hereto, accrued or deferred federal or state taxes on income, the prepaid insurance on the policies of insurance referred to in Schedule I annexed hereto, deferred pension costs other than with respect to Montgomery-Sutter Service Corporation, accrued pension and retirement plan liabilities and any depreciation and amortization on real property and other fixed assets subsequent to June 30, 1969), concurred in by Haskins & Sells, exceeds $11,620,377 or, if $11,620,377 exceeds the Adjusted Stockholders' Equity of the Seller, shall be reduced by the amount by which $11,620,377 exceeds the Adjusted Stockholders' Equity of the Seller.

(iv) The purchase price shall be increased by 38.9% of the amount by which the Adjusted Stockholders' Equity of Crocker (herein defined to mean the Stockholders' Equity as shown on the Closing Balance Sheet of Crocker after excluding the market value of Marketable Corporate Stocks, any gain realized on the sale of real property subsequent to July 1, 1969, and any depreciation and amortization on real property and other fixed assets subsequent to July 1, 1969), concurred in by Haskins & Sells, exceeds $22,246,846 or, if $22,246,846 exceeds the Adjusted Stockholders' Equity of Crocker, shall be reduced by 38.9% of the amount by which $22,246,846 exceeds the Adjusted Stockholders' Equity of Crocker.

As used in this Agreement "market value" of any security on any particular day shall mean the closing price of such security on the New York Stock Exchange on such day if such security is listed on the New York Stock Exchange or, if such security is not listed on the New York Stock Exchange but is listed on the American Stock Exchange, the closing price of such security on the American Stock Exchange on such day or, if such security is not listed on the New York Stock Exchange or the American Stock Exchange but is listed on any other recognized stock exchange in the United States, the average of the closing prices of such security on all such other recognized stock exchanges on which such security is listed on such day, or, if there shall have been no sales on the appropriate such exchange on such day, the average of the bid and asked prices of such security on such day as published in The Wall Street Journal for such day or, if the security shall not be so listed on any recognized stock exchange in the United States, the average of the bid prices of such security on such day as reported by the National Quotation Bureau, Incorporated.

(e) The Seller shall cause to be prepared on an accrual basis and delivered to the Purchaser and Haskins & Sells on the Closing Date (i) a balance sheet of the Seller as of the time immediately prior to the closing on the Closing Date, certified by the chief financial officer of the Seller (herein called the "Preliminary Closing Balance Sheet of the Seller"), and (ii) a balance sheet of Crocker as of the close of business on September 30, 1969, certified by the chief financial officer of Crocker (herein called the "Preliminary Closing Balance Sheet of Crocker", the Preliminary Closing Balance Sheet of the Seller and the Preliminary Closing Balance Sheet of Crocker being herein collectively called the "Preliminary Closing Balance Sheets"). The Seller shall make arrangements for John F. Forbes & Company to review the preparation of the Preliminary Closing Balance Sheet of the Seller, for Arthur Young & Company to review the preparation of the Preliminary Closing Balance Sheet of Crocker and for Haskins & Sells to review the Preliminary Closing Balance Sheets in order that said firms will be in a position to advise the Purchaser in writing with respect thereto as contemplated by Section 6(j) hereof.

(f) On the second business day after the Closing Date the Seller shall advise the Purchaser of any upward or downward adjustments in the purchase price pursuant to paragraph (d) of this Section 2, such advice, however, to be based on the preliminary Closing Balance Sheets rather than the Closing Balance Sheets. To the extent that, based upon the Preliminary Closing Balance Sheets, the

adjustment of the purchase price under paragraph (d) of this Section 2 results in an aggregate purchase price (herein called the "Preliminary Adjusted Purchase Price") of at least $54,000,000, the Purchaser shall deliver to the Seller on the third business day following the Closing Date Debentures in the aggregate principal amount of $7,250,000. To the extent that the aggregate Preliminary Adjusted Purchase Price, based upon such adjustment, is less than $54,000,000, the aggregate principal amount of Debentures to be delivered by the Purchaser to the Seller on the third business day following the Closing Date shall be reduced by the amount that $54,000,000 exceeds such preliminary computations, provided that up to $999.99 of the aggregate principal amount of Debentures to be delivered pursuant to this sentence may be paid by the Purchaser in cash so as to avoid the issuance of Debentures in other than an integral multiple of $1,000. To the extent that the aggregate Preliminary Adjusted Purchase Price exceeds $54,000,000, the Purchaser shall return to the Seller on the third business day after the Closing Date, such number of shares of Common Stock of Texas Instruments Inc. as at the close of business on the Closing Date had a market value equal to such excess. The shares of Common Stock of Texas Instruments Inc. of the Seller transferred to the Purchaser on the Closing Date and not returned pursuant to the next preceding sentence hereof shall be sold by the Purchaser in whole or from time to time in part promptly after the Closing Date in such manner as the Seller and the Purchaser agree. To the extent that the aggregate purchase price, as finally determined exceeds the aggregate Preliminary Adjusted Purchase Price, the Seller shall be entitled to the proceeds from the sale of such number of shares of Common Stock of Texas Instruments Inc. as at the close of business on the Closing Date had a market value equal to such excess (such number of shares being herein called the "Return Number"). For the purposes of determining the proceeds to which the Seller is entitled, half of the shares of Common Stock of Texas Instruments Inc. so sold from time to time shall be deemed to be for the account of the Seller until the number of shares so sold for the account of the Seller equals the Return Number and thereafter all sales shall be for the account of the Purchaser. Promptly after the determination of the final purchase price the Purchaser shall deliver to the Seller any such proceeds to which the Seller is entitled. To the extent that the aggregate Preliminary Adjusted Purchase Price exceeds the aggregate purchase price as finally determined an adjustment shall be made as provided in the Escrow Agreement.

3. The Seller represents and warrants as follows:

(a) The Seller and Crocker are each a corporation duly organized, validly existing and in good standing under the law of the State of California and each has the corporate power to own its property and to carry on its business as now being conducted by it. Neither the nature of the business conducted by the Seller or Crocker nor the property owned or leased by either such corporation requires qualification of such corporation as a foreign corporation in any jurisdiction. The Seller has no subsidiaries other than Montgomery-Sutter Service Corporation and Corporation of America. All of the subsidiaries of Crocker are wholly-owned.

(b) The authorized capital stock of the Seller consists of 111,720 shares of Preferred Stock, par value $60 per share, and 90,000 shares of Common Stock, par value $100 per share, of which 111,720 shares of Preferred Stock and 87,000 shares of Common Stock are outstanding. The authorized capital stock of Crocker consists of 70,000 shares of Common Stock, par value $50 per share, of which 68,518 23/27 shares are outstanding and of which 26,666 shares are lawfully owned by the Seller. The outstanding shares of Common Stock of Crocker, including the 26,666 shares thereof owned by the Seller, are validly authorized and issued, fully paid and non-assessable. There are no outstanding options to purchase, or any rights or warrants to subscribe for, or any contracts or commitments to issue or sell, or any securities or obligations convertible into, shares of capital stock of Crocker or any such convertible securities or obligations, granted, issued or entered into by Crocker.

(c) The Seller has delivered to the Purchaser the following financial statements: (i) a balance sheet of the Seller as at December 31, 1968 and a statement of income for the year then ended, certified by John F. Forbes & Company, (ii) a balance sheet of the Seller as at June 30, 1969 and a statement of income of the Seller for the six months then ended, prepared by the Seller, (iii) a balance sheet of Crocker as at December 31, 1968 and a statement of income for the year then ended, certified by

Arthur Young & Company, and (iv) a balance sheet of Crocker as at July 1, 1969 and a statement of income of Crocker for the six months then ended, prepared by Crocker. Such certified financial statements are true and correct and have been prepared in accordance with generally accepted accounting principles consistently followed throughout the periods involved. Such certified balance sheets fairly present the financial condition of the Seller and Crocker, respectively, as at December 31, 1968, and such certified statements of income fairly present the results of operations of the Seller and Crocker, respectively, for the year then ended. Since December 31, 1968, there has been (i) no material adverse change in the assets or business of the Seller or in the assets or financial condition or business of Crocker (and to the knowledge of the Seller no fact or condition exists or is contemplated or threatened which might cause such a material adverse change in the future) and (ii) no sale or any other disposition of any real properties of Crocker except as set forth in Schedule II annexed hereto. The Closing Balance Sheets will be true and correct, will be prepared in accordance with generally accepted accounting principles and will fairly present the financial condition of the Seller as of the time immediately prior to the closing on the Closing Date and of Crocker as at the close of business on September 30, 1969.

(d) Schedule III annexed hereto contains a list of all parcels of real property owned by the Seller and its subsidiaries and all of the principal parcels of real property owned by Crocker and its subsidiaries. The Seller has, and each of its subsidiaries has, good and marketable title in fee simple to all of its real property, free and clear of all encumbrances, liens and charges of every kind and character, except, as to each parcel, such as are listed in the numbered title reports referred to in said Schedule III, and leases. Crocker has, and each of its subsidiaries has, good and marketable title in fee simple to all of its real property, free and clear of all encumbrances, liens and charges of every kind and character except (i) the mortgages referred to in said Schedule III and (ii) such as do not materially and adversely affect the use presently made of such property or diminish the value thereof. All buildings on such properties and the equipment located thereon are in good operating condition and repair and conform with all applicable ordinances, regulations and building, zoning and other laws. All buildings or other improvements on such properties are located within the record property lines. All leases of real estate relating to such space are in full force and effect and there are no defaults thereunder.

(e) The Seller has, and, to the knowledge of the Seller, Crocker has, good and marketable title to its personal and intangible property. None of the Seller's personal property being sold to the Purchaser hereunder is subject to encumbrances, liens or charges of any kind or character except the lien of taxes due but not delinquent. The Seller has delivered to the Purchaser lists of the securities owned by it and Crocker at the close of business on June 30, 1969 and such lists are true and correct lists of all securities owned by the Seller and Crocker on such date. Since June 30, 1969 there have been no changes in the securities owned by the Seller or Crocker except as set forth in Schedule IV annexed hereto. All of the securities to be transferred to the Purchaser hereunder, except those securities listed in Schedule V annexed hereto, could be sold to the public by the Seller without registration thereof being required under the Securities Act of 1933, as amended. None of the securities transferred hereunder will represent interests in open end investment companies. All of the securities to be transferred to the Purchaser hereunder will be valid securities.

(f) There are no actions, suits or proceedings pending, or, to the knowledge of the Seller, threatened against or affecting Crocker at law or in equity, or before any Federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality which are not adequately covered by insurance. To the knowledge of the Seller, neither the Seller nor Crocker has violated, or is in default with respect to, any order, rule or regulation of, or any tax or other return or report payable to or required to be filed with, any Federal, state, municipal or other governmental agency, department, commission, board, bureau or instrumentality.

(g) Schedule VI annexed hereto contains a list of all contracts and agreements relating to indebtedness for borrowed money of the Seller and of Crocker. None of such contracts and agreements requires the consent of the lender to the transactions contemplated hereby except as set forth in said Schedule VI.

(h) The Seller has no outstanding contracts or agreements (other than leases and retirement plans) to which the Seller is a party, except those set forth in Schedules VI and VII annexed hereto. The Seller is not in default in any material respect under the terms of any such instrument or understanding. Without the prior written consent of the Purchaser, the Seller will not make any changes or modifications therein or incur any further material obligations or commitments or make any further material additions to its property or equipment, except in the ordinary course of business. Since June 30, 1969 there has been no change in the compensation of employees of the Seller other than in the ordinary course of business.

(i) The Seller has, and Crocker has, filed all Federal, state and local tax returns, including income and franchise tax returns and real and personal property tax returns, which are required to be filed by it and has paid all taxes shown on said returns and all assessments received by it which would require the payment of interest or penalty if not paid. As of the date hereof, no tax liabilities have been assessed or proposed against the Seller or Crocker which remain unpaid. The Federal income tax liabilities of the Seller (excluding Corporation of America) and Crocker have been audited by the Internal Revenue Service and satisfied for all fiscal years prior to and including the fiscal year ended on December 31, 1967, except that the Federal income tax liabilities of Bay Area Land Company and Crol Company, subsidiaries of Crocker, have never been audited by the Internal Revenue Service.

(j) Schedule VII annexed hereto contains a list of all policies of insurance owned by the Seller, together with a brief description thereof. All such policies are in full force and effect and the Seller will use its best efforts to continue such insurance in full force and effect until the closing hereunder.

(k) In the negotiations leading up to this Agreement, the Seller has not retained or utilized the services of any broker or finder except that it has retained Dillon, Read & Co. Inc. as a financial advisor.

4. The Purchaser represents and warrants and agrees as follows:

(a) The Purchaser is a corporation duly organized, validly existing and in good standing under the law of the State of Maryland, has the corporate power to own its property and to carry on its business as now being conducted and is duly qualified and in good standing as a foreign corporation in each jurisdiction in which the nature of the business conducted by it or the property owned or leased by it makes such qualification necessary.

(b) The authorized capital stock of the Purchaser consists of 20,000,000 shares of Common Stock, par value $2 per share, of which 11,156,714 shares were issued as of June 30, 1969, including 36,400 shares held in the treasury of Purchaser, 94,041 shares of Prior Preferred Stock, par value $50 per share, of which 87,159 shares were outstanding as of June 30, 1969, and 2,900,000 shares of Cumulative Preferred Stock, par value $35 per share, of which 2,310,146 shares of Series A (Convertible) were outstanding as of June 30, 1969. There are no outstanding options, warrants or other rights to subscribe for or purchase capital stock of the Purchaser or securities convertible into capital stock of the Purchaser, except stock options issued pursuant to employee stock option and purchase plans of the Purchaser, the 5½% Convertible Capital (Subordinated) Debentures due September 1, 1980 of the Purchaser of which $3,177,000 aggregate principal amount were outstanding on June 30, 1969 and the Cumulative Preferred Stock, Series A (Convertible), of the Company. Such outstanding shares are, and any shares issued pursuant to such options or upon conversion of such securities will be, validly authorized and issued, fully paid and nonassessable.

(c) The Purchaser has delivered to the Seller the following financial statements: a consolidated balance sheet of the Purchaser and subsidiaries as at March 31, 1969 and a consolidated statement of income, other capital, and retained earnings of the Purchaser and subsidiaries for the fiscal year then ended, all certified by Haskins & Sells. Such financial statements are true and correct and have been prepared in accordance with generally accepted accounting principles consistently applied. Such consolidated balance sheet fairly presents the position of the Purchaser and its subsidiaries as at the date thereof, and such statement of consolidated income, other capital, and retained earnings fairly presents the results of operations of the Purchaser and its subsidiaries for the year indicated. Since March 31,

1969 there has been no material adverse change in the financial position or business of the Purchaser and its subsidiaries.

(d) Since March 31, 1969, the Purchaser has not subdivided or otherwise changed any shares of any class of its capital stock, whether by way of reclassification, recapitalization or otherwise, or issued or reissued, or agreed to issue or reissue, any shares of its capital stock (other than for fair value in the judgment of its Board of Directors or pursuant to its employee stock option plans or upon the conversion of its convertible securities), and has not since such date declared or paid or made any dividend or other distribution of assets to its stockholders, except for the declaration and payment of regular quarterly cash dividends on its Prior Preferred Stock, its Cumulative Preferred Stock, Series A (Convertible), and its Common Stock.

(e) In the negotiations leading up to this Agreement, the Purchaser has not retained or utilized the services of any broker or finder other than Glore Forgan, Wm. R. Staats Inc.

(f) At the Closing Date the Indenture relating to the Debentures will have been duly authorized, executed and delivered by the Purchaser and will constitute a valid and binding agreement of the Purchaser in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting the enforcement of creditors' rights. The Debentures delivered hereunder will be duly authorized, executed and delivered by the Purchaser and will be valid and binding obligations of the Purchaser entitled to the benefits of the Indenture except as the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting the enforcement of creditors' rights. The shares of Common Stock of the Purchaser initially issuable upon conversion of the Debentures will have been duly authorized and reserved for issuance upon such conversions and, when so issued upon such conversions, will be duly issued, fully paid and nonassessable.

5. The parties hereto further agree as follows:

(a) The Purchaser may, prior to the Closing Date, through its own representatives, make such investigation of the assets, business and financial condition of the Seller and Crocker as it deems necessary or advisable, but such investigation shall not affect the Seller's representations and warranties hereunder. The Purchaser and its representatives shall, prior to the Closing Date, have full access to the properties and all the books, records and other documents of every kind of the Seller and Crocker (including, without limitation, stock records of the Seller and Crocker and all contracts, agreements and deeds to which either the Seller or Crocker is a party), and the officers of the Seller will furnish the Purchaser with such financial and operating data and other information as to the business and properties of the Seller and Crocker as the Purchaser shall from time to time reasonably request. In the event this Agreement is not consummated, the Purchaser shall use its best efforts to keep confidential any information (unless readily ascertainable from public or published information or trade sources) obtained from the Seller and Crocker concerning their assets and business and shall return to the Seller and Crocker any statements, documents or other written information obtained from them in connection therewith.

(b) As soon as practicable following the date hereof and prior to seven business days before the Closing Date the Seller shall deliver to the Purchaser a true and complete list certified by its Treasurer showing (i) the name of each bank in which Seller has an account or safe deposit box and the names of all persons authorized to draw thereon or to have access thereto and (ii) the names of all persons, if any, holding powers of attorney from the Seller and a summary statement of the terms thereof.

(c) The Seller will use its best efforts until 90 days after the Closing Date to preserve the present relationship between the Seller and others having business relations with the Seller.

(d) The Seller will cooperate and will use its best efforts to have its officers, directors and other employees cooperate with the Purchaser, at its request, on and after the Closing Date, in furnishing information, evidence, testimony and other assistance in connection with any actions, proceedings, arrangements or disputes involving assets and properties acquired and liabilities assumed by the Purchaser pursuant hereto.

(e) Prior to the Closing Date, the Seller will operate its business only in the ordinary course, except for transactions involved in the winding up and dissolution of the Seller, including liquidating distributions.

(f) The Purchaser will use its best efforts to obtain, prior to the Closing Date, approval for the listing, upon official notice of issuance, of the Common Stock of the Purchaser into which the Debentures will be convertible on the New York Stock Exchange, the Midwest Stock Exchange and the Pacific Coast Stock Exchange. The Purchaser will use its best efforts to obtain, as soon as practicable, approval for the listing, upon official notice of issuance and evidence of satisfactory distribution, of the Debentures on the New York Stock Exchange.

(g) The Purchaser will use its best efforts to obtain amendments to the Note Agreements, dated May 31, 1967, with respect to its 6.05% and 6.50% Promissory Notes due July 1, 1987 in order to permit the transactions contemplated by this Agreement; provided, however, that this paragraph (g) shall not require the Purchaser to increase its effective interest cost on such Notes in order to obtain such amendments.

(h) The Seller and the Purchaser shall each pay one-half of the bills submitted by printers in connection with the printing of this Agreement.

(i) After the closing on the Closing Date, the Seller as part of its plan of dissolution and liquidation may distribute to its stockholders (herein called the "Seller Stockholders") the Debentures of the Purchaser to be delivered to the Seller as part of the purchase price hereunder. Apart from any such distribution, the Seller will not sell any of such Debentures or the Common Stock into which such Debentures will be convertible or make any other disposition thereof except on the same terms as are set forth in paragraph (j) of this Section 5.

(j) No Seller Stockholder shall sell or otherwise dispose of any of the Debentures received by him from the Seller or any of the Common Stock received upon conversion of such Debentures (unless such Debentures or Common Stock shall have been registered under the Securities Act of 1933, as amended, or any similar statute then in force and a prospectus with respect thereto shall then be current) (A) unless (i) such Seller Stockholder has given written notice to the Purchaser expressing his intention to effect such sale or disposition and describing the intended method thereof, (ii) such Seller Stockholder has been advised by the Purchaser that in the opinion of the Purchaser's counsel the proposed sale or disposition may be effected without registration under the Securities Act of 1933, as amended, as then in force or any similar statute then in force and (iii) the sale or disposition is made in accordance with the terms of such notice or (B) if prohibited by paragraph (k) of this Section 5. Promptly after receiving any such notice the Purchaser will present copies thereof to its counsel. Each Debenture and each certificate for Common Stock issued upon conversion of any Debenture shall, to the extent deemed appropriate by counsel for the Purchaser, be stamped or otherwise imprinted with a legend in substantially the following form:

"The transfer of this security is subject to the conditions specified in a Purchase Agreement, dated September 25, 1969, between Foremost-McKesson, Inc. and Provident Securities Company and no transfer of this security shall be valid or effective until such conditions have been fulfilled."

(k) The parties hereto agree as follows with respect to the registration under the Securities Act of 1933, as amended, of the Debentures and the Common Stock issued and issuable upon the conversion thereof:

(i) The Purchaser will use its best efforts to cause a registration statement covering such aggregate principal amount of the Debentures, up to $25,000,000, as is requested by the Seller and the Common Stock into which such Debentures are convertible to be filed under the Securities Act of 1933, as amended, as soon as practicable after the date hereof. Thereafter, the Purchaser will use its best efforts to effect such registration as expeditiously as practicable and to qualify the Indenture relating to the Debentures under the Trust Indenture Act of 1939, as amended. The Purchaser will keep effective such registration and from time to time amend or supplement the

registration statement and prospectus used in connection therewith to the extent necessary to comply with the Securities Act of 1933, as amended. In such connection the Purchaser will enter into an Underwriting Agreement in substantially the form of Exhibit D annexed hereto.

(ii) The Purchaser will use its best efforts to cause a registration statement covering the Debentures and Common Stock of the Purchaser then held by the Seller Stockholders in the aggregate amount requested by the Seller, and the Common Stock into which such Debentures are convertible, to be filed under the Securities Act of 1933, as amended, on or about March 15, 1970 and to become effective on or about April 15, 1970. The Purchaser will keep effective such registration and from time to time amend or supplement the registration statement and prospectus used in connection therewith to the extent necessary to comply with the Securities Act of 1933, as amended, until 30 months after the Closing Date; provided, however, that (unless otherwise required by law after assuming that the Seller Stockholders abide by the third sentence of this subparagraph (ii)) such registration need not be kept effective nor be amended or supplemented for any period of not exceeding 60 days during which a public distribution of Common Stock or securities convertible into Common Stock of the Purchaser is being made by the Purchaser or during any period not exceeding 30 days during which the Common Stock of the Purchaser is being used, directly or indirectly, as a measure to determine the price for any transaction of the Purchaser. The Purchaser shall give to each of the Seller Stockholders whose Debentures or Common Stock issued or issuable upon conversion thereof are covered by such registration ten days prior written notice of the commencement and termination of any such period of not exceeding 60 days or any such period of not exceeding 30 days and during any such period no Seller Stockholder shall sell or otherwise dispose of such Debentures or Common Stock. In connection with sales pursuant to such registration, the Seller Stockholders shall not effect distribution of the Debentures or Common Stock issued or issuable upon conversion thereof otherwise than through Dillion, Read & Co. Inc. or another broker acceptable to the Purchaser, shall notify the Purchaser of any proposed sales at least ten trading days prior thereto and shall enter into such further agreements with the Purchaser as may be reasonably requested by it to assure compliance with the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, and the regulations promulgated thereunder. While it shall not affect the agreement provided for in this subparagraph (ii), the Seller Stockholders will consider any delay proposed by the Purchaser in the filing of the registration statement provided for in this subparagraph (ii) in order to permit the Purchaser to use fiscal 1970 audited financials.

(iii) During the second 30-month period following the Closing Date, upon written request of the holders of at least $10,000,000 in market value of the Debentures and Common Stock issued upon conversion of the Debentures, the Purchaser will, as expeditiously as practicable, cause the Debentures and Common Stock of the Purchaser then held by such holders and the Common Stock into which such Debentures are convertible to be registered under the Securities Act of 1933, as amended; provided, however, that (a) if registration at such time would involve a special audit, the Purchaser may delay such registration until receipt of its next annual audit and (b) the Purchaser may delay any such registration for a period of time not exceeding 90 days if it would adversely affect a material proposed or pending transaction of the Purchaser. The Purchaser will keep effective such registration and from time to time amend or supplement the registration statement and prospectus used in connection therewith to the extent necessary to comply with the Securities Act of 1933, as amended.

(iv) In case of any proposed registration by the Purchaser during the second 30-month period following the Closing Date of securities of the Purchaser other than the Debentures and/or Common Stock issued or issuable upon conversion thereof, on Form S-1 or other comparable form under the Securities Act of 1933, as amended, which registration as proposed relates to an offering of securities for cash, the Purchaser will give each holder of Debentures and/or Common Stock issued upon conversion thereof at least 20 days prior written notice of the filing of the proposed registration statement relating thereto. If requested by any such holder in writing

within 15 days after receipt of any such notice, the Purchaser will use its best efforts to register all or part of such holder's Debentures or Common Stock issued or issuable upon the conversion thereof (as may be specified in such request) under the Securities Act of 1933, as amended, concurrently with the registration of such securities and from time to time amend or supplement the registration statement and prospectus used in connection therewith to the extent necessary in order to comply with the Securities Act of 1933, as amended; provided that such registration statement need not be kept effective nor be amended or supplemented subsequent to 180 days following the effective date of such registration statement.

(v) It shall be a condition of any holder's right to participate in any registration set forth in this paragraph (k) that such holder shall furnish to the Purchaser in writing such information as shall be reasonably requested by the Purchaser, and which shall be peculiarly within such holder's knowledge, for use in any such registration statement or prospectus and shall agree to indemnify the Purchaser, its directors and officers, each person, if any, who controls the Purchaser within the meaning of the Securities Act of 1933, as amended, each underwriter which is involved in the transaction and each person, if any, who controls any such underwriter against all losses, claims, damages, liabilities and expenses resulting from any untrue statement or alleged untrue statement of a material fact or any omission or alleged omission of a material fact required to be stated in the registration statement or prospectus or necessary to make the statements therein not misleading, but only to the extent that such untrue statement or omission is contained in the information so furnished in writing by such holder expressly for use therein.

(vi) It shall be a condition precedent to the Purchaser's obligations as set forth in subparagraphs (i) and (iii) of this paragraph (k) and to the Purchaser's obligations to include any Debentures and/or Common Stock issued or issuable upon conversion thereof in any registration statement pursuant to subparagraph (iv) of this paragraph (k) that the offering to which the registration relates shall be a firm underwriting and that the Representative or the Representatives of the Underwriters shall be Dillon, Read & Co. Inc. and/or another firm or firms satisfactory to the Purchaser.

(vii) In connection with each registration pursuant hereto, the Purchaser shall indemnify the Seller Stockholders and the underwriters, if any, involved in each such registration in substantially the manner set forth in Exhibit D annexed hereto.

To the extent that, in the opinion of Messrs. White & Case, counsel for the Purchaser in this transaction (which opinion shall be satisfactory in form and substance to Messrs. Morrison, Foerster, Holloway, Clinton & Clark), registration of the Debentures and/or the Common Stock issued or issuable upon conversion thereof is no longer required by the Securities Act of 1933, as amended, in order to permit the sale thereof by any holder thereof (other than a holder thereof in control of, controlled by, or under common control with, the Purchaser), the foregoing rights of registration contained in this paragraph (k) shall cease to exist. The expenses of each registration referred to in this paragraph (k) (including fees of counsel and accountants for the Company, printing expenses and the furnishing of such number of prospectuses as are required) shall be borne by the Purchaser. It is understood that the Purchaser shall not bear the expense of any underwriting discounts and commissions, brokerage fees, blue sky fees and expenses or any fees of counsel for the selling holders or the underwriters or others employed by them in connection with any such registration.

(l) If the Purchaser shall so request of the Seller not less than five days prior to the Closing Date, the Seller shall on the Closing Date convey the real property to be conveyed and transferred hereunder to the subsidiary of the Purchaser specified in such request.

(m) The conversion price to be set forth in the Indenture shall be 15% (to the nearest cent) above the average of the closing prices on the New York Stock Exchange of the Common Stock of the Purchaser on the ten trading days immediately preceding the third business day prior to the Closing Date; provided that if such average is less than $24 per share, such conversion price shall be 15%

(to the nearest cent) above $24 per share and if such average is more than $30 per share, such conversion price shall be 15% (to the nearest cent) above $30 per share.

(n) The Seller and the Purchaser shall enter into an Escrow Agreement prior to the Closing Date in the form of Exhibit C annexed hereto.

(o) The Purchaser shall use its best efforts to obtain at its own expense on or prior to the Closing Date the satisfaction of the conditions referred to in paragraphs (e), (h) and (j) of Section 6 hereof.

(p) The Seller will cause the marketable securities of the Seller to be transferred to the Purchaser hereunder to be transferred into the name of a nominee of Crocker-Citizens National Bank prior to the Closing Date and for such marketable securities to be held by such Bank for delivery to the Purchaser at the closing hereunder. In the event, and to the extent, any such marketable securities shall not be delivered to the Purchaser at the closing hereunder, the Seller shall deliver to the Purchaser on the third business day after the Closing Date cash and/or shares of Common Stock of Texas Instruments Inc. having a market value on the Closing Date equal to the market value on the Closing Date of such marketable securities not delivered.

(q) Any dividends, interest or other distributions received by the Seller in receipt of the securities transferred by the Seller to the Purchaser pursuant hereto shall be paid over to the Purchaser.

6. The obligation of the Purchaser to purchase the assets and properties to be conveyed and transferred hereunder shall be subject to the following conditions:

(a) The representations and warranties of the Seller contained herein shall be true and correct on and as of the Closing Date with the same effect as though made at such time; the Seller shall have performed all obligations and complied with all covenants required by this Agreement to be performed or complied with by it on or before the Closing Date pursuant to the terms hereof; and the Seller shall have delivered to the Purchaser a certificate, dated the Closing Date and signed by its President or one of its Vice Presidents and its Secretary or one of its Assistant Secretaries, to both such effects.

(b) The Purchaser shall have received from Messrs. Morrison, Foerster, Holloway, Clinton & Clark, counsel for the Seller, an opinion, dated the Closing Date, in form and substance satisfactory to the Purchaser and its counsel, to the effect that:

(i) The Seller and Crocker are each a corporation duly organized, validly existing and in good standing under the law of the State of California. Each such corporation has the corporate power to own its property and carry on its business as now being conducted. Neither the nature of the business transacted by either such corporation nor the property owned or leased by it requires its qualification as a foreign corporation in any jurisdiction.

(ii) The authorized capital stock of Crocker consists of 70,000 shares of Common Stock, par value $50 per share, of which 28,518 $\frac{23}{27}$ shares are outstanding. 26,666 of such outstanding shares are reflected on the records of Crocker as being owned by the Seller and to the best knowledge of such counsel such records are correct. All of such outstanding shares of Crocker have been validly authorized and issued and are fully paid and non-assessable. Assuming that the Purchaser has no knowledge of any liens, encumbrances, charges or claims of any kind thereon, good title to such 26,666 outstanding shares of capital stock of Crocker owned by the Seller has been duly transferred to the Purchaser hereunder free and clear of all liens, encumbrances, charges or claims of any kind.

(iii) The Seller has full power and authority to make, execute, deliver and perform this Agreement; this Agreement has been duly authorized by proper corporate action (including stockholder approval) of the Seller; and this Agreement constitutes a valid and legally binding obligation of the Seller enforceable in accordance with its terms.

(iv) All corporate and other proceedings required to be taken by or on the part of the Seller to authorize it to carry out this Agreement and to sell, convey, assign, transfer and deliver its properties and assets as herein provided have been duly and properly taken.

(v) Neither the execution and delivery by the Seller of this Agreement nor the consummation by it of the transactions contemplated hereby will constitute a violation or breach by the Seller of its Articles of Incorporation or By-Laws or of any contract or agreement known to such counsel to which the Seller is a party or by which the Seller is bound or result in the creation of any lien, charge or encumbrance of any kind on any of the assets or properties of the Seller under any agreement known to such counsel.

(vi) The instruments of transfer and assigment delivered to the Purchaser are sufficient to vest in the Purchaser the Seller's right, title and interest to all properties and assets (other than real property) herein provided to be conveyed and transferred.

(vii) The Escrow Agreement has been duly authorized, executed and delivered by the Seller and constitutes a valid and legally binding obligation of the Seller enforceable in accordance with its terms.

Such opinion shall also cover such other matters incident to the matters herein contemplated as the Purchaser or its counsel may reasonably request, including the form of all papers and the validity of all proceedings.

(c) The Purchaser shall have received from Messrs. White & Case, its counsel in this transaction, an opinion, dated the Closing Date, in form and substance satisfactory to the Purchaser to the effect that:

(i) The Seller is a corporation duly organized, validly existing and in good standing under the law of the State of California.

(ii) This Agreement and the Escrow Agreement have been duly authorized, executed and delivered by the Seller and constitute valid and legally binding obligations of the Seller enforceable in accordance with their respective terms, except as enforcement of the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting the enforcement of creditors' rights.

In giving the foregoing opinion Messrs. White & Case may rely as to matters of California law upon the opinion of Wayne D. Hudson, Esq., General Counsel of the Purchaser.

(d) No action or proceeding before any court or other governmental body shall have been instituted or threatened to restrain or prohibit the acquisition by the Purchaser contemplated hereby.

(e) The Commissioner of Corporations of the State of California shall have granted to the Purchaser all necessary permits for the issuance of the Debentures as contemplated hereby and the Common Stock into which such Debentures will be convertible and the terms and conditions of such issuance shall have been approved by the Commissioner of Corporations of the State of California after a hearing upon the fairness of the terms and conditions thereof at which the Seller and its stockholders shall have the right to appear, all as contemplated by Section 3(a)(10) of the Securities Act of 1933, as amended.

(f) The New York Stock Exchange, the Midwest Stock Exchange and the Pacific Coast Stock Exchange shall have approved for listing, upon official notice of issuance, the shares of Common Stock of the Purchaser into which the Debentures will be convertible.

(g) The Purchaser shall have obtained amendments to its Note Agreements, dated May 31, 1967, with respect to its 6.05% and 6.50% Promissory Notes due July 1, 1987, in order to permit the transactions contemplated by this Agreement.

(h) The Purchaser shall have received a California Land Title Association Standard Coverage policy, dated the Closing Date, insuring title to each property of the Seller referred to in Schedule III annexed hereto in an amount equal to the appraised value thereof obtained by the Purchaser incident to this transaction, and said policy, as to each such property, shall contain no exception to title other than

those set forth in the title report for such property referred to in said Schedule III, and the printed exceptions usual and customary in such policy.

(i) The title opinion, dated September 24, 1969, of Messrs. Morrison, Foerster, Holloway, Clinton & Clark, delivered to the Purchaser, with respect to each principal parcel of real property owned by Crocker and its subsidiaries and affirming that Crocker or one of its subsidiaries has good and marketable title in fee simple to each said parcel, free and clear of all encumbrances, liens and charges except such as are set forth in said opinion and therein described, shall be re-dated and redelivered by Messrs. Morrison, Foerster, Holloway, Clinton & Clark to the Purchaser on the Closing Date and such redated opinion shall contain a description and explanation in narrative form as to encumbrances, liens and charges noted therein. In the event of any changes in the state of the title since the date of the original opinion, such changes shall be set forth.

(j) Haskins & Sells shall have advised the Purchaser in writing that, based upon a limited review (and not an audit) of the Preliminary Closing Balance Sheets, it has reason to believe that such balance sheets are substantially correct. John F. Forbes & Company shall have given to the Purchaser the same advice with respect to the Seller and Arthur Young & Company shall have given the same advice to the Purchaser with respect to Crocker.

(k) There shall not have been enacted any amendment to the Internal Revenue Code of 1954, as amended, the effect of which would be to eliminate or reduce the amount of the deduction presently allowed under Section 163 of such Code in respect of the interest payable upon the Debentures.

(l) The Seller shall have obtained and delivered to the Purchaser prior to the Closing Date consents to the assignment to the Purchaser of the policies of insurance (other than title insurance) which pursuant to the terms hereof are to be transferred to the Purchaser.

(m) Arthur Young & Company shall have advised the Purchaser in writing that, based upon a limited review (and not an audit) of Crocker, it has reason to believe that the Adjusted Stockholders' Equity of Crocker as at October 15, 1969 is substantially the same as the Adjusted Stockholders' Equity of Crocker as at September 30, 1969.

(n) All actions, proceedings, instruments and documents required on the part of the Seller to carry out this Agreement and the transactions contemplated hereby shall be reasonably satisfactory in all respects to the Purchaser and its counsel.

7. The obligation of the Seller to convey and transfer the assets and properties to be conveyed and transferred hereunder shall be subject to the following conditions:

(a) The representations and warranties of the Purchaser herein contained shall be true and correct on and as of the Closing Date with the same effect as though made at such time; the Purchaser shall have performed all obligations and complied with all covenants required by this Agreement to be performed or complied with by it on or before the Closing Date pursuant to the terms hereof; and the Purchaser shall have delivered to the Seller a certificate, dated the Closing Date and signed by its President or one of its Vice Presidents and its Secretary or one of its Assistant Secretaries, to both such effects.

(b) The Seller shall have received from Messrs. White & Case, counsel for the Purchaser, an opinion, dated the Closing Date, in form and substance satisfactory to the Seller and its counsel to the effect that:

(i) The Purchaser is a corporation duly organized, validly existing and in good standing under the law of the State of Maryland.

(ii) This Agreement and the Escrow Agreement have been duly authorized, executed and delivered by the Purchaser and constitute valid and legally binding obligations of the Purchaser enforceable in accordance with their respective terms, except as enforcement of the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting the enforcement of creditors' rights.

(iii) The Indenture relating to the Debentures has been duly authorized, executed and delivered by the Purchaser and constitutes a valid and binding agreement of the Purchaser enforceable in accordance with its terms, except as enforcement of the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting the enforcement of creditors' rights. The Debentures delivered to the Seller and to the Escrow Agent on the Closing Date have been, and the Debentures to be delivered after the Closing Date hereunder will be, duly authorized, executed and delivered by the Purchaser and are, or will be, as the case may be, valid and binding obligations of the Purchaser, enforceable in accordance with their terms and entitled to the benefits of the Indenture, except as enforcement of the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting the enforcement of creditors' rights. The shares of Common Stock of the Purchaser initially issuable upon conversion of the Debentures have been duly authorized and reserved for issuance upon such conversions and, when so issued upon such conversions, will be duly issued, fully paid and nonassessable.

Such opinion shall also cover such other matters incident to the matters herein contemplated as the Seller or its counsel may reasonably request, including the form of all papers and the validity of all proceedings. In giving the foregoing opinion Messrs. White & Case may rely as to matters of California law upon the opinion of Wayne D. Hudson, Esq., General Counsel of the Purchaser.

(c) The holders of at least one-half of the outstanding Common Stock of the Seller shall have (i) approved and adopted the proposal of the Board of Directors that the Seller be wound up and dissolved and (ii) adopted a Plan of Complete Liquidation of the Seller, and the execution and delivery of this Agreement and consummation of the transactions contemplated thereby shall have been approved by the holders of at least one-half of the outstanding Common Stock and the holders of at least two-thirds of the outstanding Preferred Stock of the Seller.

(d) The registration statement referred to in Section 5(k)(i) hereof shall have been filed with the Securities and Exchange Commission. On the Closing Date, such registration statement will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

(e) The Purchaser shall have delivered to the Seller a letter in form and substance satisfactory to the Seller agreeing not to sell any of the securities listed in Schedule V annexed hereto in violation of the Securities Act of 1933, as amended.

(f) All actions, proceedings, instruments and documents required on the part of the Purchaser to carry out this Agreement and the transactions contemplated hereby shall be reasonably satisfactory in all respects to the Seller and its counsel.

8. The representations and warranties contained herein shall not survive the closing except as otherwise provided in the Escrow Agreement. After the closing hereunder the liability of the Seller, and the Purchaser's sole recourse, in respect of any adjustment of the purchase price provided for herein and in respect of any Loss (as defined in the Escrow Agreement) or any other obligation under the Escrow Agreement or this Agreement shall be limited to the Escrow Fund referred to in the Escrow Agreement.

9. Any notices or other communications required or permitted hereunder shall be sufficiently given if sent by registered or certified mail, postage prepaid, and if to the Seller, addressed to it at One Montgomery Street, San Francisco, California 94104, Attention of the President, and if to the Purchaser, addressed to it at 111 Pine Street, San Francisco, California 94111, Attention of the Secretary, or to such other address or attention as shall be furnished in writing by either of the parties, and any such notice shall be deemed to have been given as of the date so mailed.

10. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. No stockholder of the Seller shall be deemed to be a successor or assign of the Seller by reason of being such stockholder.

11. Nothing herein shall be deemed to require the Seller to remain in existence after April 15, 1970.

12. This Agreement shall be governed by and construed in accordance with the law of the State of California.

13. All understandings and agreements heretofore had between the parties hereto with respect to the transactions contemplated hereby are merged in this Agreement, and this Agreement reflects all of the understandings of the parties with respect to such transactions. This Agreement cannot be modified or amended except by written agreement signed by the respective parties hereto.

14. This Agreement is subject to the approvals referred to in Section 7(c) hereof.

15. The sale of the securities which are the subject of this agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of such securities or the payment or receipt of any part of the consideration therefor prior to such qualification is unlawful. The rights of all parties to this agreement are expressly conditioned upon such qualification being obtained.

16. It is agreed that time is of the essence.

17. This Agreement may be executed in one or more counterparts and each counterpart when so executed and delivered shall constitute a complete and original instrument and it shall not be necessary when making proof of this Agreement or any counterpart thereof to produce or account for more than one executed counterpart.

IN WITNESS WHEREOF, each of the parties hereto has caused its corporate name to be hereunto subscribed by one of its officers thereunto duly authorized as of the day and year first above written.

FOREMOST-MCKESSON, INC.

By R. J. DREWS
President

PROVIDENT SECURITIES COMPANY

By CHARLES DE LIMUR
President

EXHIBIT A

FORM OF INDENTURE

[Not included in this copy]

EXHIBIT B

ASSUMPTION OF LIABILITIES

KNOW ALL MEN BY THESE PRESENTS that for good and valuable consideration, the receipt of which is hereby acknowledged, FOREMOST-MCKESSON, INC., a Maryland corporation (herein called the "Purchaser"), for itself, its successors and assigns, hereby assumes and agrees to pay or cause to be paid or otherwise discharge or cause to be discharged the Stated Liabilities of PROVIDENT SECURITIES COMPANY, a California corporation (herein called the "Seller"), as they become due and payable. For the purposes of the preceding sentence Stated Liabilities shall mean all liabilities of the Seller existing and outstanding as of the time immediately prior to the closing on the Closing Date as defined in the Purchase Agreement dated September 25, 1969 between the Purchaser and the Seller, but only to the extent recorded in the Closing Balance Sheet of the Seller (exclusive of any liabilities reflected in the notes but not so recorded) as of such time prepared, certified and concurred in, in the manner set forth in paragraph 2(c) of said Purchase Agreement, saving and excepting liabilities reflected thereon for federal and state income taxes, and accrued pension and retirement plan liabilities. The Purchaser further agrees faithfully to perform all mortgages and leases (but no other contracts) of the Seller referred to in Schedule VI of said Purchase Agreement in effect on the date hereof.

IN WITNESS WHEREOF, the undersigned corporation has caused its corporate name to be hereunto subscribed and its corporate seal to be hereunto affixed by its officers thereunto duly authorized this 15th day of October, 1969.

FOREMOST-MCKESSON, INC.

By .....
President

ATTEST:

.....
Secretary

EXHIBIT C

ESCROW AGREEMENT

AGREEMENT dated as of October 15, 1969, between FOREMOST-MCKESSON, INC., a Maryland corporation (herein called the "Purchaser"), PROVIDENT SECURITIES COMPANY, a California corporation (herein called the "Seller"), and BANK OF AMERICA, NATIONAL TRUST & SAVINGS ASSOCIATION, a national banking association (herein called the "Escrow Agent"),

WITNESSETH:

WHEREAS, the Seller and the Purchaser are parties to a Purchase Agreement (herein called the "Purchase Agreement"), dated September 25, 1969, providing for the sale of certain properties and assets of the Seller to the Purchaser; and

WHEREAS, pursuant to the Purchase Agreement certain securities are to be deposited in escrow with the Escrow Agent;

NOW, THEREFORE, in consideration of the mutual covenants contained in the Purchase Agreement and in this Escrow Agreement, the parties hereto hereby agree as follows:

1. The Purchaser shall deposit with the Escrow Agent on the date hereof its 6% Convertible Subordinated Debentures due June 15, 1994 in the aggregate principal amount of $2,500,000 to be held by the Escrow Agent subject to the terms and conditions herein contained (herein, together with any interest or other moneys received in respect thereof, investments made hereunder and any income received thereon pursuant hereto, called the "Escrow Fund").

2. While held by the Escrow Agent pursuant to this Escrow Agreement, the Escrow Fund shall, subject to the terms and conditions of this Escrow Agreement, be applied (i) to adjust the purchase price set forth in the Purchase Agreement in the manner provided herein and (ii) to indemnify and hold harmless the Purchaser against and in respect of the entire amount of any loss, liability or reasonable and actual expense incurred by the Purchaser as a result of any misrepresentation or breach of warranty or agreement of the Seller contained in Section 3(b) (as to Crocker only), the last sentence of Section 3(c) (as to Crocker only), the last sentence of Section 3(e) and the first sentence of Section 3(f) (as to Crocker only) of the Purchase Agreement (herein called a "Loss"). As used herein the term "Loss" shall also include 38.9% of the amount of any loss, liability or reasonable and actual expense incurred by Crocker in excess of $300,000 as a result of an event or fact the existence or occurrence of which would constitute a misrepresentation or breach of warranty or agreement of the Seller contained in Section 3(b) (as to Crocker only), the last sentence of Section 3(c) (as to Crocker only), the last sentence of Section 3(e) and the first sentence of Section 3(f) (as to Crocker only) of the Purchase Agreement or from any contingent obligation reflected in the Closing Balance Sheet of Crocker referred to in the Purchase Agreement. Anything herein to the contrary notwithstanding, there shall be no recovery from the Escrow Fund as a result of any misrepresentation or breach of warranty contained in the last sentence of said Section 3(c) due to the fact that the facts or events specified in Section 3(d) of the Purchase Agreement as to Crocker or any of its subsidiaries are untrue. The liability of Seller, and Purchaser's sole recourse, in respect to any adjustment of the purchase price provided for in the Purchase Agreement and herein and in respect to any Loss or any other obligation under the Purchase Agreement or this Agreement shall be limited to the Escrow Fund provided for herein.

3. If the aggregate Preliminary Adjusted Purchase Price (as defined in Section 2(f) of the Purchase Agreement) exceeds the aggregate purchase price as finally determined pursuant to the Purchase Agreement, the Seller and the Purchaser shall certify such excess to the Escrow Agent. The Escrow Agent promptly thereafter shall deliver to the Purchaser an aggregate principal amount of Debentures equal to such excess, except that if such excess is not an integral multiple of $1,000, the Escrow Agent shall deliver to the Purchaser an aggregate principal amount of Debentures equal to the next higher integral multiple of $1,000 and to the extent such next higher integral multiple of $1,000

exceeds the amount otherwise due to the Purchaser, the Purchaser shall deliver to the Seller a check for such amount. Any interest or other moneys theretofore received by the Escrow Agent on the Debentures delivered to the Purchaser (together with interest at the rate of 6% per annum thereon from the date of receipt thereof) shall at the same time be paid by the Escrow Agent to the Purchaser. At the time of such delivery to the Purchaser, the Escrow Agent shall also deliver to the Seller Debentures (and any interest or other moneys theretofore received thereon) in an aggregate principal amount equal to $1,000,000 less (i) the aggregate principal amount of any Debentures then being delivered to the Purchaser, (ii) such aggregate principal amount of Debentures as is equal to the aggregate amount of Losses theretofore paid to the Purchaser from the Escrow Fund, and (iii) such aggregate principal amount of Debentures as is equal to the aggregate amount of Losses theretofore asserted by the Purchaser and not yet certified to the Escrow Agent by the Seller and the Purchaser.

4. (a) If the Purchaser is of the opinion that any Loss has occurred, and desires to have the Escrow Fund or any part thereof applied thereto pursuant to this Escrow Agreement, the Purchaser shall promptly so notify the Seller in writing at the address provided in paragraph 14 hereof and shall transmit a copy of such notice to the Escrow Agent. Any such notice shall contain a detailed statement specifying the circumstances and computation of such asserted Loss. Notice of any claim of Loss with respect to the Escrow Fund must be given on or prior to April 15, 1970.

(b) The amount of any Loss asserted by the Purchaser by notice given pursuant to subparagraph 4(a) hereof shall be certified to the Escrow Agent in writing jointly by the Purchaser and the Seller if they agree on said amount. If they cannot so agree within a period of 30 days after notice is given pursuant to subparagraph 4(a) hereof, either the Purchaser or the Seller shall be entitled after 30 days following the giving of such notice to direct submission of the matter or matters in dispute for decision to an Arbitration Committee initially composed of one person designated by the Purchaser and one person designated by the Seller. If such arbitrators fail to agree upon the settlement of any dispute submitted to them within 30 days, they shall designate a third arbitrator whose individual determination of the matter in dispute, based on a complete review of the matters in dispute, and on such information as either party may choose to present, shall be in lieu of the determination by the two named arbitrators. In the event the two arbitrators fail to choose a third arbitrator within 20 days after said 30 day period, either party hereto may apply for resolution of the dispute to the American Arbitration Association in San Francisco. The Purchaser and the Seller shall promptly notify the Escrow Agent of such submission to arbitration. As promptly as possible thereafter the arbitrator(s) shall certify to the Escrow Agent, and to the Purchaser and the Seller, that there is no Loss or, if there is a Loss, the amount thereof. Such certification shall contain a detailed statement specifying the circumstances and computation of any Loss. The determination of the arbitrator(s) as to the amount of the Loss shall be conclusive and binding upon the Purchaser and the Seller. Such determination may be deferred pending the time when any Loss which is uncertain or contingent becomes fixed. The Seller and the Purchaser shall each bear its own expenses, including legal and accounting fees, if any, with respect to any disagreement hereunder. If the matter is submitted to arbitration, the arbitrator(s) shall designate the party or parties to bear the other expenses of such determination and/or the respective amounts to be borne by each. Promptly after the certification to the Escrow Agent of any Loss pursuant to this subparagraph (b), the Escrow Agent shall pay to the Purchaser from the Escrow Fund an aggregate principal amount of Debentures equal to the amount of the Loss so certified. Any interest or other moneys theretofore received by the Escrow Agent on such Debentures (together with interest at the rate of 6% per annum thereon from the date of receipt thereof) shall at the same time be paid to the Purchaser.

(c) In the event that the Escrow Agent shall not have received on or prior to April 15, 1970 a copy of any notice of a Loss asserted by the Purchaser pursuant to the provisions of subparagraph (b) of this paragraph 4 (or if each Loss asserted has been satisfied prior to such date), then promptly after such date the Escrow Agent shall deliver the Escrow Fund still retained by it to the Seller. In the event that at April 15, 1970 the Purchaser shall have asserted any Loss or Losses hereunder and the amount of such Loss or Losses has not been certified to the Escrow Agent pursuant to subparagraph

(b) of this paragraph 4, then the Escrow Agent shall deliver to the Seller only such aggregate principal amount of Debentures, if any (and any interest or other moneys theretofore received thereon), as the Purchaser shall in writing concur to be in excess of the amount needed to compensate it for such Loss or Losses claimed by the Purchaser. Promptly following the certification of any Loss or Losses referred to in the preceding sentence to the Escrow Agent pursuant to subparagraph (b) of this paragraph 4, the Escrow Agent shall deliver to the Purchaser an aggregate principal amount of Debentures equal to the amount of such Loss or Losses. Any interest or other moneys theretofore received by the Escrow Agent on such Debentures (together with interest at the rate of 6% per annum thereon from the date of receipt thereof) shall at the same time be paid to the Purchaser. In the event the full balance of the Escrow Fund is not delivered to the Seller pursuant to the first sentence of this subparagraph (c), then as soon as the amount of each Loss referred to in the second sentence of this subparagraph (c) is certified to the Escrow Agent and payment of the amounts so certified has been made to the Purchaser, the full balance of the Escrow Fund shall be delivered by the Escrow Agent to the Seller.

5. Any cash held in the Escrow Fund may be invested and re-invested in prime commercial paper, certificates of deposit in United States banks having a capital and surplus of at least $50,000,000, obligations of the United States Government or any agency thereof and obligations guaranteed by the United States Government, in each case due within one year from the date of purchase in accordance with written instructions received from the Seller from time to time. The Escrow Agent shall be fully empowered to sell any obligations or securities purchased by it pursuant hereto in order to obtain cash to make any payments required to be made hereunder, provided that it shall give three (3) business days' prior written notice to the Seller of its intention to make such sales. The Escrow Agent shall hold any such security so purchased by it hereunder without any responsibility other than for the safekeeping thereof. Interest or dividends received by the Escrow Agent on such investments shall be added to the Escrow Fund until such Fund is paid out in full pursuant to the terms hereof.

6. The duties and obligations of the Escrow Agent shall be determined solely by the express provisions of this Agreement and the Escrow Agent shall not be liable except for the performance of such duties and obligations as are specifically set out in this Agreement.

7. The Escrow Agent shall not be responsible in any manner whatsoever for any failure or inability of the parties or any one of them, or of any one else, to deliver moneys to the Escrow Agent or otherwise to honor any of the provisions of this Agreement.

8. The parties, jointly and severally, will reimburse and indemnify the Escrow Agent for, and hold it harmless against, any loss, liability or expense, including but not limited to counsel fees, incurred without bad faith or wilful misconduct on the part of the Escrow Agent arising out of or in connection with its acceptance of, or the performance of, its duties and obligations under this Agreement as well as the costs and expenses of defending against any claim or liability arising out of or relating to this Agreement.

9. The Escrow Agent shall be fully protected in acting on and relying upon any written notice, direction, request, waiver, consent, receipt or other paper or document which the Escrow Agent in good faith believes to be genuine and to have been signed or presented by the proper party or parties.

10. The Escrow Agent shall not be liable for any error of judgment, or for any act done or step taken or omitted by it in good faith, or for any mistake in fact or law, or for anything which it may or do refrain from doing in connection herewith, except its own wilful misconduct.

11. The Escrow Agent may seek the advice of legal counsel in the event of any dispute or question as to the construction of any of the provisions of this Agreement or its duties hereunder, and it shall incur no liability and shall be fully protected in respect of any action taken, omitted or suffered by it in good faith in accordance with the opinion of such counsel.

12. If a controversy arises between one or more of the parties hereto, or between any of the parties hereto, and any person not a party hereto, as to whether or not or to whom the Escrow Agent shall

deliver the Escrow Fund or any portion thereof or as to any other matter arising out of or relating to this Agreement or the escrow deposits deposited hereunder, the Escrow Agent shall not be required to determine the same and need not make any delivery of the Escrow Fund or any portion thereof but may retain it until the rights of the parties to the dispute shall have finally been determined by agreement or by final order of a court of competent jurisdiction, provided, however, that the time for appeal of any such final order has expired without an appeal having been made. The Escrow Agent shall deliver the escrow deposits or any portion thereof within fifteen (15) days after the Escrow Agent has received written notice of any such agreement or final order accompanied by an affidavit that the time of appeal has expired without an appeal having been made. The Escrow Agent shall be entitled to assume that no such controversy has arisen unless it has received a written notice that such a controversy has arisen which refers specifically to this Agreement and identifies by name and address the adverse claimants to the controversy.

13. The Seller agrees to pay for the services of the Escrow Agent hereunder and to reimburse the Escrow Agent for all reasonable expenses, disbursements and advances incurred or made by the Escrow Agent in the performance of its duties hereunder, including but not limited to reasonable fees, expenses and disbursements of its counsel.

14. All certificates, notices or other communications required or permitted hereunder shall be delivered or sent by registered mail as follows:

To the Seller:

PROVIDENT SECURITIES COMPANY
One Montgomery Street
San Francisco, California 94104
Attention: President

To the Purchaser:

FOREMOST-MCKESSON, INC.
111 Pine Street
San Francisco, California 94111
Attention: Secretary

To the Escrow Agent:

BANK OF AMERICA, NATIONAL TRUST
& SAVINGS ASSOCIATION
Bank of America Building
San Francisco, California
Attention: .....

or such other address or addresses as shall be furnished in writing by any party hereto.

15. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Either the Purchaser or the Seller may assign any interest herein.

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be executed as of the day and year first above written.

FOREMOST-MCKESSON, INC.

By .....
Vice President

PROVIDENT SECURITIES COMPANY

By .....
Vice President

BANK OF AMERICA, NATIONAL
TRUST & SAVINGS ASSOCIATION, as Escrow Agent

By .....
Vice President

EXHIBIT D

UNDERWRITING AGREEMENT

[Not included in this copy]

* * *

Exhibit B Annexed to Affidavit of Wayne D. Hudson

(Omitted in printing.)

Exhibit C Annexed to Affidavit of Wayne D. Hudson

(Omitted in printing.)

Exhibit D Annexed to Affidavit of Wayne D. Hudson

Transcript

BEFORE THE

DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

No. 500 0391

In the Matter of the Application of

FOREMOST-McKESSON, INC.

for a permit authorizing the sale and issuance of securities.

SAN FRANCISCO, CALIFORNIA

Thursday, September 25 1969

Reported by:

JOHN A. DALSIN

E. D. CONKLIN
Certified Shorthand Reporter
110 Sutter Street
San Francisco 4
GArfield 1-3984

Exhibit D Annexed to Affidavit of Wayne D. Hudson

INDEX

WITNESSES

On Behalf of the Applicant:	*Direct*
John H. F. Haskell, Jr.	7
William J. Elbert	18

EXHIBITS

		In Evid.
Department Exhibits:		
No. 1	Copy of Notice of Hearing in re the within matter dated September 12 1969 and signed by J. Dominique Olcomendy.	3
No. 2	Certificate of Posting signed by Homer G. Bishop.	4
No. 3	Application of Foremost-McKesson, Inc. filed with the Commissioner of Corporations on September 10 1969, plus cover letter and exhibits.	4
Applicant's Exhibits:		
No. 1	Copy of affidavit of service of mail dated September 15 1969 signed by Stephen D. Richards.	6
No. 2	Copy of purchase agreement between Foremost-McKesson, Inc. and Provident Securities Company dated September 25 1969 plus attachments.	20

• • •

Exhibit D Annexed to Affidavit of Wayne D. Hudson

(7) *Direct Examination*

Q. [By Mr. Austin] Mr. Haskell, would you explain please the relationship of your firm to this transaction and what you were employed by Provident to do and what you have done in that employment. A. Certainly. We were employed starting approximately one year ago as financial advisor to the Provident Securities Company to first determine what should be done today with this company and secondly to try to implement whatever recommendation we came out with.

We spent approximately six months making a thorough review of the past history of the Provident Securities Company and came to a conclusion—and I made a recommendation to the board of directors and to the shareholders of Provident—that the Provident Securities Company should no longer continue to exist as it has in the past.

To give you a little bit of background: The Provident Securities Company was organized and formed in 1915 by Mr. W. H. Crocker.

The shares of this company—

Q. I believe you meant "the children of W. H. Crocker". A. That's right.

Q. The four children. A. That's right.

And it was organized as a personal holding company at that time. And the purpose basically of the company was to keep together for the benefit of the children and their heirs the (8) capital that had been put together in the family and to keep it as a central pool of capital for investment purposes.

Today the Provident Securities Company has as its shareholders, with one exception, all descendants of Mr. W. H. Crocker. The one exception is the San Francisco Foundation, which acts in trust for Mrs. Helen Crocker Russell, I believe.

Q. The bank is the trustee? A. Right.

Q. I think one modification might be in order.

I think in several instances spouses of decedents own shares, too. A. That's right.

The share capital of the Provident Securities Company consists of the following: 111,720 shares of outstanding preferred stock and 87,000 shares of common stock.

Now in the process of our investigation and study of this company it became clear that for several reasons this company no longer could continue to exist in its present form. There were some adverse tax implications under present tax laws of the personal holding company. It was also quite clear that as generation after generation had come into being as the principal shareholders of this company, that the same uniformity of outlook on investment objectives and objectives for the company no longer were true. You had, for instance, certain members of the family who were far more interested in income; others who were far more interested in capital gain.

The more we studied the situation the more we realized that (9) whatever advantages had existed at the time that the decedent had first set up this company in 1915 no longer existed today. We therefore made a recommendation as the result of our study in about December of last year in which we suggested that the Provident Securities Company either be liquidated or sold to a purchaser or merged with another corporation, but that it go out of existence and a way be found as soon as possible for each of the shareholders to get their proportionate share of the assets or the proceeds of the sale of the assets and then do what they wished with that result.

This recommendation was accepted by the board of directors and by the shareholders of the Provident Securities Company.

We then decided to do two things: One, to prepare a plan of liquidation; and secondly, while we were preparing that plan of liquidation, to discuss with a selected group of

corporations, major corporations throughout the United States, what interest they might have in acquiring all or a portion of the assets of Provident Securities Company through various forms of either merger or purchase of assets, taxable and tax-free.

We explored all the various possibilities. During the period from approximately the 1st of January until the end of July of this year we have had conversations with approximately twenty major corporations in this country —all who had indicated some interest at some point or other in some kind of relationship with Provident.

Now having gone into great detail with a number of these (10) companies and having examined all of these companies, we decided that it was in the best interests of the Provident shareholders to accept a proposal that had been made to us by the Foremost-McKesson Company. This proposal consisted of the purchase from Provident of certain of its assets and allowing us to liquidate the rest of the assets and distribute them to the Provident shareholders.

Now would you like me to go into the details of the transaction?

Q. In a minute. I just want to ask you one question.

Is Provident Securities Company a California corporation? A. Yes. It is.

Q. Would you now briefly—and I think you should clarify this for the Hearing Officer—go into the terms as embodied in the contract (which we propose later to offer as an exhibit) and contrast those terms with the terms in the Notice of Hearing and explain why in your judgment it is merely a shuffling of assets and not a basic change in terms. A. Yes. I think the easiest way is to start at the beginning, at the total consideration that was originally considered in this transaction. Because the important thing has been that there has been no change in the total con-

sideration or evaluation placed on the assets of this company. The only thing that has taken place is that we have decided to hold back from this deal certain assets and have only included certain assets which consist of marketable securities, which are readily evaluated. (11) And so the final consideration has been adjusted in that manner.

And I think I will run through the numbers here. It is the easiest way.

Q. Yes. A. The total valuation placed on Provident Securities Company was $82,150,000.

Now we have removed from the assets to be sold to Foremost-McKesson first of all $2,000,000 worth of furnishings which were formerly in the Hillsborough property. These are art works and items of that nature.

Now that brings us down to $80,150,000.

We have then removed from that $80,150,000 a package of various securities totaling $26,150,000.

Now if you remove these securities you come up with a valuation of $54,000,000. And that is the valuation on the assets to be purchased by Foremost-McKesson and is the sum total of the purchase price with the exception of certain adjustments that can be made later on.

Now that $54,000,000 is to be eventually paid to the Provident Securities Company and their shareholders in the following form: $4,250,000 in cash; and $49,750,000 of principal amount of convertible debentures of Foremost-McKesson.

Q. Would you say, Mr. Haskell, to explain to the Hearing Officer variations from the Notice of Hearing, that the variation or "swing" (you might say) comes in this $5,000,000 of cash and the retentions mentioned in the Notice of Hearing? These are the only things that have changed. (12) A. That's right.

If you will notice, what has happened is that this item—the item of $12,000,000 on the retention—has gone up by

$750,000. And as a result the cash amount has dropped by $750,000. So that's how you go from the $5,000,000 to the $4,250,000.

Q. All right. Would you like to turn now, having made that explanation, to— You have, I think, sufficiently described the assets of Provident going to Foremost.

Would you now give us some of the details with respect to the principal terms of the debentures which form a part of the consideration moving from Foremost to Provident. A. All right. According to the terms of the purchase agreement the debentures to be used in this transaction will have a coupon of six percent payable semi-annually. The debentures will have a maturity of 25 years and they will be convertible into the common shares of Foremost-McKesson at a premium of 15 percent. This is 15 percent over the price of the Foremost-McKesson common stock.

And I think I should explain to you exactly how we plan to calculate that.

On the ten business days prior to the closing of this transaction we will take the closing prices on each of those business days on the New York Stock Exchange of the Foremost-McKesson shares. Then having those ten prices, we will take an average of those ten. And this fifteen percent premium will (13) then be placed on that average that would come after those ten trading days. And that will then be the conversion price of these debentures. And that presumably will take place— Well, those ten business days prior to the closing—

Mr. Swanson: Three days prior.

The Witness: Right. Three days prior to the closing should in effect price these debentures very close to the effective date of the offering. And we hope to be able to file this registration of statement next Monday. And under normal SEC procedures it should become effective fairly close to the closing.

Exhibit D Annexed to Affidavit of Wayne D. Hudson

Q. [By Mr. Austin] Would you care to comment on the antidilution formula briefly. A. Yes. Briefly, it's a perfectly standard antidilution formula. It's what we call the "market price formula"—which very briefly means that in its essence there is an adjustment to protect the debenture holders at any time the company is to issue securities or common stock at a discount below the then market price.

Q. I think the final area upon which we would appreciate your commenting is the holdback provisions contained in the purchase agreement. A. Right. Under the terms of the purchase agreement there will be at the closing first of all two adjustments made: One will be an adjustment to increase or decrease the consideration in terms of the increase or decrease of the portfolio of marketable securities in Provident from the time of August 18th when we initially announced this or (14) initially made our preliminary agreement, until the closing. So that adjustment will take place at the closing.

Q. Are those the securities which Foremost is acquiring? A. These are the securities which Foremost is acquiring.

Q. Does the adjustment also cover securities, a certain percentage of the securities held by Crocker Estate Company? A. That is correct.

There is also a portfolio—less important, but nevertheless a considerable portfolio—of marketable securities in Crocker Estate.

Now a minority interest of approximately 39 percent of Crocker Estate is one of the assets of Provident and is being acquired by Foremost-McKesson. And therefore, there is—

Q. It has in turn marketable securities. A. It has in turn marketable securities.

And therefore there is an adjustment made up to the closing on that portfolio of marketable securities.

Exhibit D Annexed to Affidavit of Wayne D. Hudson

Q. Well, is the purpose of this adjustment really to have the consideration paid for these securities more accurately pegged to a recent market price? A. That's right.

Q. Is that the nature of this? A. That's exactly right. It's as close as we could technically conceive it. We are having the consideration at the closing reflect the value on any one asset such as marketable securities, which are changing from day to day.

(15) Q. Would you continue, please. A. Right. We make these adjustments through the technical device of holding back and giving out more of one class of marketable securities in our portfolio. Those adjustments having been made, then the total consideration of $54,000,000—$4,250,000 cash and $49,750,000—gets paid over to the Provident shareholders.

Now there is withheld at that time $2,500,000 worth of the convertible debentures to take care of possible adjustments which can take place later after the closing.

Now those adjustments are of two kinds. The first kind is an adjustment which will take place once we have certified balance sheets of both the Provident Securities Company and the Crocker Estate Company certified by the public accountants of the two companies. Now we feel that these should be available maybe a month, maybe two months after the closing. Now if there are any adjustments to be made between those certified balance sheets and the balance sheets that have been prepared but not certified on the same dates but available at the closing, then those adjustments can be made, if it's upwards, by withholding part of the $2,500,000 of those debentures.

Now assuming that there are no adjustments at that time, as soon as those certified balance sheets are available one million out of the two and a half million dollars of debentures will be released to the Provident shareholders of the holdback. There then will be a million and a half

dollars (16) held for six months from the closing date—that is, from October 15th to April 15th. And that million and a half will be held back in case there are any breaches in the warranties and representations that the Provident people could have made to Foremost-McKesson.

Q. And that is for what period of time again? A. Six months.

Q. All right. Now in the balance sheet adjustments is there a provision for review by the independent accountants who represent Foremost? A. Yes there is.

Mr. Austin: I would like to go off the record for a minute.

[Remarks outside the record.]

Mr. Austin: We will go back on the record.

Q. [By Mr. Austin] Mr. Haskell, would you give us your overall estimate as to why this particular transaction viewed from the point of view of Provident Securities Company and its shareholders is fair, just and equitable. A. Well I believe it is fair, just and equitable because (number one) it accomplishes a purpose that we have set out for the Provident Securities Company in finding a way to sell its assets and render as quickly as possible or as soon as possible cash or securities in the hands of the Provident shareholders.

We think it's fair because we think that based on our experience and a review of the assets of this company we are getting a fair price for these assets.

Secondly, we think it's fair because we think the quality (17) of the securities that we are getting is of sufficient quality and condition where we think that they represent a fair marketable security for the Provident shareholders.

We also think it's fair because, compared to all the alternatives that we have studied and reviewed during the last six months, we feel that this is the cleanest, administratively the easiest and the quickest way of accomplishing what we wanted to accomplish for the Provident shareholders.

Mr. Austin: I have no further questions, Mr. Hearing Officer.

The Hearing Officer: I have no questions.

[Witness excused.]

Mr. Austin: May we have Mr. Elbert of Foremost sworn, please.

The Hearing Officer: All right. Raise your right hand, please.

WILLIAM J. ELBERT, called as a witness by and on behalf of the Applicant, being first duly sworn by the Hearing Officer, was examined and testified as follows:

The Hearing Officer: Please give your name and address and occupation.

The Witness: Right. My name is William J. Elbert; my principal address is 111 Pine Street, which is the address of Foremost-McKesson, Inc., of which I am vice president and (18) controller.

Direct examination:

Q. [By Mr. Austin] Mr. Elbert, would you care to comment on the accuracy and completeness of the comments made by Mr. Haskell with respect to the transaction as he described it. A. I believe Mr. Haskell described the transaction accurately, and I have nothing further to add to his description.

Q. Would you mind stating for the record where the chief business office of Foremost-McKesson is located. A. Yes, sir. San Francisco, 111 Pine Street.

Q. Thank you. Would you now please give us a brief description of the business of Foremost-McKesson, Inc. and

some data with relation to its size. A. Yes sir. The Foremost-McKesson, Inc. company came about by virtue of a merger in 1967 of Foremost Dairies, Inc. and McKesson & Robbins, Incorporated.

As a result Foremost-McKesson, Inc. is now in four main operating areas and has established for operating purposes four principal companies—the main one being McKesson & Robbins Drug Company, which has an annual volume in excess of seven hundred million. The next in size would be the Foremost Foods Company, which has a volume of four hundred million. And third is the McKesson Liquor Company, which has a volume of three hundred million. And last the McKesson Chemical Company, with a volume of approximately a hundred and forty million.

These now total in the neighborhood of about one billion (19) five hundred million in annual sales volume.

Foremost-McKesson, Inc. being a leader in the wholesale distribution field of these various products.

Q. Thank you. Would you care to comment now viewing this proposed transaction from the point of view of Foremost-McKesson, Inc. and express a judgment as to whether or not you consider it fair, just and equitable insofar as Foremost-McKesson, Inc. is concerned. A. Yes sir. We consider it fair, just and equitable as far as Foremost-McKesson is concerned.

And to add what our business reasons are behind the transaction: We at the end of our last fiscal year—March 31 1969—had a sufficient amount of investable cash of about thirty million, which we felt we should augment at this particular time in this tight money market. And the situation at Provident Securities Company presented just such an opportunity, plus one additional factor—which was an opportunity to look into the real estate development field and determine if Foremost-McKesson, Inc. would enter

such a field, having already been in the real estate business by owning some five hundred-odd parcels across the country.

Mr. Austin: I have no further questions of Mr. Elbert, Mr. Hearing Officer.

The Hearing Officer: I have no questions.

[Witness excused.]

Mr. Austin: I have no further witnesses to call.

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Exhibit E Annexed to Affidavit of Wayne D. Hudson

(Omitted in printing.)

Exhibit F Annexed to Affidavit of Wayne D. Hudson

Permit

STATE OF CALIFORNIA

DEPARTMENT OF CORPORATIONS

PERMIT

File No. 500 0391

Applicant: FOREMOST-McKESSON, INC.

THIS PERMIT IS PERMISSIVE ONLY AND DOES NOT CONSTITUTE A RECOMMENDATION OR ENDORSEMENT OF THE SECURITIES PERMITTED TO BE ISSUED

FOREMOST-McKESSON, INC., a Maryland corporation, is hereby qualified to offer, sell and issue the securities described in its application filed on September 10, 1969 and any amendments and supplements thereto to the date hereof, to the persons described in said application, for the consideration, uses and purposes, and in the manner set forth in said application. This qualification is effective for 12 months from the date hereof.

Dated: San Francisco, California
September 30, 1969

Anthony R. Pierno
Commissioner of Corporations

By J. Dominique Olcomendy
J. Dominique Olcomendy
Senior Corporations Counsel

JDO:pg

Exhibit G Annexed to Affidavit of Wayne D. Hudson

(Omitted in printing.)

Exhibit H Annexed to Affidavit of Wayne D. Hudson

(Omitted in printing.)

Exhibit I Annexed to Affidavit of Wayne D. Hudson

Form 3

(See Opposite ☞)

15, 1994.

Date of event which requires the filing of this statement (See instruction 8) October 21, 1969

SECURITIES BENEFICIALLY OWNED (See instruction 7)

TITLE OF SECURITY (See instruction 8)	NATURE OF OWNERSHIP (See instruction 9)	AMOUNT OWNED beneficially (See instruction 10)
6% Convertible Subordinated Debentures due June 15, 1994.	Direct	$ 47,250,000

BEST COPY AVAILABLE

REMARKS: (See instruction 11)
Said Debentures were acquired pursuant to a Purchase Agreement dated Septe 25, 1969, between the Issuer and the Undersigned. Registration Statement 2-34888 for $25,000,000 principal amount of said Debentures became effecti October 21, 1969.

PROVIDENT SECURITIES COMPANY
By _____
Signature
President

Date of statement October 31, 1969

Exhibit J Annexed to Affidavit of Wayne D. Hudson

Form 4

(See Opposite ☞)

Exhibit K Annexed to Affidavit of Wayne D. Hudson

(Omitted in printing.)

TITLE OF SECURITY (See Instruction 1)	DATE OF TRANSACTION (See Instruction 3)	AMOUNT BOUGHT or otherwise acquired (See Instruction 5)	AMOUNT SOLD or otherwise disposed of (See Instruction 5)	NATURE OF OWNERSHIP (See Instruction 10)	AMOUNT OWNED beneficially at end of month (See Instruction 6)
6% Convertible Sub-ordinated Debentures	10/21/69		25,000,000	Direct	
	10/24/69		22,227,000	Direct	23,000

REMARKS: (See Instruction 10) The sale of $25,000,000 principal amount of said debentures was pursuant to an Underwriting Agreement dated October 21, 1969, among Dillon, Read & Co., Inc., the Issuer and the Underwriters named. The $22,227,000 principal amount of Debentures were distributed as a liquidating dividend to shareholders of the Underwriters named.

Providence Securities Company

By _____

Date of statement October 31, 1969

BEST COPY AVAILABLE

Exhibit L Annexed to Affidavit of Wayne D. Hudson

Order of Liquidation

ROBERT D. RAVEN
DAVID E. BAUDLER
HALEY J. FROMHOLZ
MORRISON, FOERSTER, HOLLOWAY,
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Crocker Plaza
San Francisco, California 94104
Telephone: 986-1310

Attorneys for Provident
Securities Company

IN THE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE

CITY AND COUNTY OF SAN FRANCISCO

No. 614085

In the the Matter of the Winding Up and Dissolution of PROVIDENT SECURITIES COMPANY, a California corporation.

ORDER DECLARING THE AMOUNTS TO BE SET ASIDE FOR REMAINING CLAIMS AND EXPENSES AND AUTHORIZING FINAL LIQUIDATING DISTRIBUTIONS.

The verified reports of Provident Securities Company (hereinafter sometimes referred to as "Provident"), a California corporation, in the process of voluntary winding-up and dissolution, accompanying the account of its Directors and its petition for order settling said account, declaring the amounts to be set aside for the payment of the remaining claims, expenses and costs of litigation, authorizing the payment of final liquidating distributions, discharging said Directors from their duties and liabilities and dissolving the corporation (hereinafter sometimes referred to as "Report and Petition") having been filed herein on August 14, 1970, and this Court having issued two Orders to Show Cause (dated August 14 and August 18, 1970) why this Court should not make and enter said Order, and having prescribed in said Orders to Show Cause the giving of notice to the shareholders and creditors of Provident of a place and time for hearing of the aforementioned Report and Petition by publication and by mailing of said Orders to Show Cause, and said Report and Petition having come on regularly this day for hearing, Provident appearing by its attorneys, Morrison, Foerster, Holloway, Clinton & Clark, evidence was presented to the Court from which the Court finds the following facts to be true:

1. Copies of the Order to Show Cause, dated August 14, 1970, were mailed at least ten (10) days before the time set for hearing of this Report and Petition, to wit: on Friday, August 14, 1970, to each person interested in Provident as shareholders or creditors, at his last known address appearing on the books and records of Provident as appears by the Certificate of Mailing on file herein. A copy of the Order to Show Cause, dated August 18, 1970, was published in THE RECORDER, a newspaper of general circulation in the City and County of San Francisco, State of California, once a week for two consecutive weeks, to wit: on August 19, 1970, and August 26, 1970, as appears by the Proof of Publication on file herein.

2. Proof of the giving of notice of the hearing of this Report and Petition by mailing and publication of said

Orders to Show Cause was made at the hearing, and it appears to the satisfaction of the Court, and the Court finds that notice to all persons of interest to Provident as shareholders or creditors of the time and place of hearing of this Report and Petition was regularly given and was in all respects due, proper and sufficient.

3. The voluntary proceedings for winding up Provident were hereby commenced by the shareholders, representing 50% or more of the voting power of Provident as appears from the Certificate of Election of Provident to Wind-Up and Dissolve, which Certificate was filed in the office of the Secretary of State of the State of California on September 29, 1969. It appears to the satisfaction of the Court, and the Court finds that voluntary proceedings for winding up of Provident were duly commenced pursuant to the provisions of Sections 4600 *et seq.*, of the Corporations Code of the State of California.

4. Thereafter, a petition for Court supervision of these winding-up proceedings was filed herein on March 2, 1970, pursuant to the provisions of Sections 4607-4619 of the Corporations Code of the State of California. Notice of the hearing of said Petition was duly given to all shareholders, creditors and claimants of Provident as appears from the Proof of Publication and Affidavit of Mailing heretofore filed herein on March 12 and 13, 1970, respectively. By Order dated March 16, 1970, this Court assumed jurisdiction of these winding-up proceedings.

5. On April 13, 1970, Provident requested a revenue ruling from the Internal Revenue Service with respect to establishing a Provident Shareholder's Liquidating Trust (hereinafter sometimes referred to as the "Liquidating Trust") to enable Provident to (i) distribute to its shareholders in trust all assets of Provident which cannot

be readily converted into cash or distributed in kind to the individual shareholders, (ii) prosecute and collect claims of Provident on behalf of the shareholders, and (iii) defend and pay, settle or otherwise dispose of all remaining claims and liabilities of Provident. The Internal Revenue Service has since approved the establishment of said Liquidating Trust and a copy of its ruling and supplemental ruling are on file herein.

6. On August 27, 1970, Provident and Crocker-Citizens National Bank (One Montgomery Street, San Francisco, California 94120), as Trustee, established the Liquidating Trust, which action the Court hereby approves and ratifies. As is more specifically set forth below, Provident will distribute to said Liquidating Trust (i) cash and its interest in the $691,000 principal amount of Foremost-McKesson, Inc. ("Foremost") 6% Convertible Subordinated Debentures due June 15, 1994, held in escrow with the Bank of America, N.T. & S.A., pursuant to that Escrow Agreement, dated October 15, 1969, among Provident, Foremost and the Bank of America, N.T. & S.A. (hereinafter sometimes referred to as the "Debentures in Escrow") to provide for the remaining claims and obligations, as specified herein, against Provident, (ii) cash to cover expenses in defending and prosecuting the remaining claims of Provident, (iii) all tax refund claims of Provident, and (iv) all remaining assets or claims of Provident other than cash.

7. By the terms of its order assuming jurisdiction, this Court ordered that all creditors and claimants of or against Provident be barred from participation in any distribution of the general assets of Provident if they failed to make claims and proofs of their demands to the Clerk of this Court on or before July 16, 1970, and prescribed that notice to that effect be given to such creditors or claimants by

publication at least once a week for three consecutive weeks in The Recorder, a newspaper of general circulation printed and published in the City and County of San Francisco, and by mailing a copy of such notice to each creditor or claimant shown as such by the books of Provident at his last known address. A copy of said Notice to Creditors and Shareholders was published in The Recorder once a week for three consecutive weeks, to wit: on March 17, 24 and 31, 1970, as appears by the Proof of Publication filed herein on March 31, 1970. A copy of said Notice to Creditors and Shareholders was mailed to each shareholder, creditor and claimant of Provident as shown by its books on March 17, 1970, as appears by the Affidavit of Mailing filed herein on March 17, 1970.

8. Proof of the giving of notice to creditors of Provident in the manner required by law was made at the hearing, and it appears to the satisfaction of the Court, and the Court finds that notice to creditors herein was regularly given and was in all respects due, proper and sufficient.

9. Prior to July 16, 1970, the last date set by said Order for the presentation of all claims and demands against Provident, there were filed with the Clerk of this Court the following claims: (i) a deficiency claim of $90,000, including interest, filed by the Franchise Tax Board of the State of California for the years 1960 through 1968; and (ii) claims based upon three related actions pending in the United States District Court for the Southern District of New York: No. 2011, *Radiation Dynamics, Inc.* v. *Goldmuntz, et al.;* No. 2012, *Aronson, et al.* v. *Goldmuntz, et al.;* No. 2013, *Marilyn Held, et al.* v. *Goldmuntz, et al.* No other claims were filed with the Clerk of this Court.

10. In addition to the claim filed with the Clerk of this Court, Provident as set forth in paragraphs 12 and 13 of

its Report and Petition has informed this Court of several claims which are presently pending against Provident but which were not filed with the Clerk of this Court as required by said Order, to wit: (i) *Kalman Held* v. *Goldmuntz, et al.,* No. 4552, United States District Court for the Southern District of New York, which case is related to the other three *Goldmuntz* actions referred to above, (ii) a claim of Foremost based upon an alleged violation by Provident of Section 16(b) of the Securities and Exchange Act of 1934, and (iii) a claim of Foremost against the Debentures in Escrow based upon an alleged breach of warranty with respect to the Purchase Agreement, dated September 25, 1969, between Foremost and Provident whereby Provident sold approximately two-thirds of its assets to Foremost.

11. Subsequent to filing its deficiency claim of $90,000 filed with the Clerk of this Court, the Franchise Tax Board proposed additional deficiencies for the income years 1968 and 1969. Provident has since paid all such proposed deficiencies and has filed claims for refunds with the Franchise Tax Board, which claims for refunds will be assigned to the Liquidating Trust. In addition, Provident anticipates a refund of approximately 25 percent of the franchise taxes paid for the income year 1969 (taxable year 1970) because it will dissolve prior to the end of the year; and a claim will be filed for such refund.

12. On August 28, 1970, the Franchise Tax Board issued a Tax Clearance Certificate. Thus, all taxes or penalties due under the California Bank and Corporation Franchise Tax Law have been paid.

13. Provident's federal income tax returns through the taxable year 1969 have been audited and the asserted deficiencies have been paid by Provident. Provident has filed,

and will assign to the Liquidating Trust, claims for refunds for part of said paid deficiencies. Provident or the Liquidating Trust on behalf of Provident will also file a final federal income tax return for the taxable period in 1970, ending upon Provident's dissolution. Provident anticipates that this return will show a net operating loss that will be carried back to 1967, and result in a refund of taxes paid for that year, for which a claim for refund will be filed.

14. Without deciding the merits of any such claims, the Court has determined that the following amounts are to be set aside in the Liquidating Trust, which amounts are reasonable and adequate to cover any recovery on the following remaining contingent claims against Provident: a total of $140,000 for all four of the *Goldmuntz* actions (Nos. 2011-2013, and 4552), and $804,000 for Foremost's Section 16(b) claim. In addition, Provident is to transfer to the Liquidating Trust its interest in the $691,000 principal amount of Debentures in Escrow, including all interest earned thereon, which Debentures are subject to Foremost's claim for breach of warranty.

15. The Court has also determined that $165,000 is to be set aside in the Liquidating Trust, which sum the Court finds is reasonable and adequate to pay all expenses incurred in defending the four *Goldmuntz* actions, the Section 16(b) claim of Foremost and the breach of warranty claim of Foremost to the $691,000 principal amount of Debentures in Escrow, including all interest earned thereon, as well as expenses incurred in prosecuting the tax refund claims of Provident which are to be transferred to the Liquidating Trust.

16. Provident has also agreed to set aside $70,486 in the Liquidating Trust to enable the Liquidating Trust to continue making monthly annuity payments to John Murphy ($100), Joseph Zanini ($100), Louis Collaud ($400), Sheila Gustafson ($150), and Molly Reed ($125), which action the Court hereby approves and confirms.

17. The Court also finds that Provident will incur approximately $7,000 of additional liquidation costs, consisting of accounting fees for a final audit of Provident, remaining legal fees arising from these liquidation proceedings and miscellaneous closing expenses. Said amount is to be transferred to the Liquidating Trust and payment of such expenses will be made by the Liquidating Trust.

18. Thus, the Court finds that all known debts, liabilities and expenses of Provident have actually been paid, or will be adequately provided for by this Order.

19. After making provisions for the payment of the claims, obligations and expenses of Provident as above set forth, the Court finds that as of August 31, 1970, Provident has known assets on hand of approximately $204,000 in cash, six art works and claims for tax refunds as above set forth.

20. The Court finds that Provident is in a position to distribute all of its remaining assets to its shareholders, either directly or to the Liquidating Trust. Thus, the Court approves and authorizes the payment of the following final liquidating distributions: (i) all remaining cash, after making provision as above set forth for the remaining claims, obligations and expenses of Provident, is to be distributed pro rata to the shareholders of Provident, and (ii) all other assets, known or unknown, fixed or contingent, including the remaining six art works and tax refund claims of Provident, are to be distributed to the Liquidating Trust.

Exhibit L Annexed to Affidavit of Wayne D. Hudson

21. Upon making the above-described distributions of assets, the Court finds that all assets of Provident, known or unknown, will have been distributed.

22. The accounts of the Directors of Provident as set forth in the Report and Petition, and as supplemented on this date, were done in the name of and on behalf of Provident for the purpose of winding-up, settling and liquidating the affairs of Provident and should be ratified, approved and confirmed.

23. All the allegations contained in said Report and Petition are true and correct.

24. The Directors of Provident have fully carried out their duties in conducting the winding-up and dissolution of Provident, and upon completion of the winding-up of Provident with respect to those items hereinabove set forth, they should be discharged from their duties and liabilities to creditors and/or shareholders.

25. Upon completion of the winding-up of Provident with respect to those items hereinabove set forth, Provident will be in a condition to be dissolved and should be declared duly wound up and dissolved.

WHEREFORE, by reason of the law and findings aforesaid, IT IS ORDERED, ADJUDGED AND DECREED:

1. That notice of the time and place fixed for the hearing of said Report and Petition was given in the manner and form and for the time required by law and was in all respects due, proper and sufficient, and said notice was regularly given.

Exhibit L Annexed to Affidavit of Wayne D. Hudson

2. That voluntary proceedings for winding-up of Provident were duly commenced pursuant to the provisions of Sections 4600 *et seq.*, of the Corporations Code of the State of California.

3. That proceedings invoking judicial supervision by this Court of the winding-up of Provident were duly commenced pursuant to the provisions of Sections 4607-4619 of the Corporations Code of the State of California.

4. That notice to creditors of Provident of the time within which, and the person to whom, to present proof of all claims and demands against Provident was given in the manner and form and for the time required by law and was in all respects due, proper and sufficient, and said notice was regularly given.

5. That the Liquidating Trust established by Provident with Crocker-Citizens National Bank (One Montgomery Street, San Francisco, California 94120) on August 27, 1970, is hereby approved, confirmed and ratified.

6. That the following sums are reasonable and adequate to cover the following remaining contingent claims of Provident, and Provident is authorized and directed to pay said sums to the Liquidating Trust:

a) a total of $140,000 for all four of the *Goldmuntz* actions, Nos. 2011-2013 and 4552, pending in the United States District Court for the Southern District of New York; and

b) $804,000 for Foremost's Section 16(b) claim.

Should a claimant prevail on his claim against Provident, he is to look only to the sum hereby authorized to be set aside for the payment of said claim.

7. That Provident is authorized and directed to assign to the Liquidating Trust its interest in the $691,000 principal amount of Foremost Debentures in Escrow, including all interest earned thereon, which Debentures are subject to Foremost's breach of warranty claim.

8. That Provident is authorized and directed to pay to the Liquidating Trust the sum of $165,000, which sum is reasonable and adequate to pay all expenses incurred in defending the four *Goldmuntz* actions (Nos. 2011-2013 and 4552), the Section 16(b) claim of Foremost and the breach of warranty claim of Foremost, as well as expenses incurred in prosecuting the tax refund claims of Provident.

9. That Provident is authorized and directed to pay into the Liquidating Trust the sum of $70,486 which will enable the Liquidating Trust to continue making monthly annuity payments to the following persons in the amounts indicated: John Murphy ($100), Joseph Zanini ($100), Louis Collaud ($400), Sheila Gustafson ($150), and Molly Reed ($125).

10. That Provident is authorized and directed to pay into the Liquidating Trust the sum of $7,000 to provide for the remaining accounting and legal fees of Provident, as well as miscellaneous closing expenses.

11. That all taxes or penalties due under the Bank and Corporation Franchise Tax Law have been paid.

12. That all other known debts and liabilities of Provident have actually been paid or are adequately provided for by this Order.

13. That Provident is authorized and directed to distribute pro rata to its shareholders all of its remaining cash

after making provision as above set forth for the remaining claims, obligations and expenses of Provident.

14. That Provident is authorized and directed to distribute to the Liquidating Trust all other assets, known or unknown, fixed or contingent, including its remaining six art works and tax refund claims.

15. That upon making the above set-forth distributions, all of the assets of Provident, known or unknown, will have been duly distributed to the shareholders of Provident, either directly or to the Liquidating Trust.

16. That all acts of the Directors of Provident, as set forth in said Report and Petition, be and they are hereby ratified, approved and confirmed.

17. That this hearing be continued until 9:30 A.M., September 11, 1970, in this Law and Motion Department of the Superior Court in and for the City and County of San Francisco, State of California, at which time if proof of the completion of the winding-up of Provident with respect to those items hereinabove set forth is presented, the Court will grant Provident's petition for a final order and decree as follows:

a) That all taxes or penalties due under the Bank and Corporation Franchise Tax Law have been paid;

b) That all other known debts and liabilities have been paid except for the following specified claims and expenses for which adequate provision has been made by depositing with the Provident Shareholder's Liquidating Trust (One Montgomery Street, San Francisco, California 94120) funds in the amounts indicated to pay such claims and expenses:

Exhibit L Annexed to Affidavit of Wayne D. Hudson

(i) a total of $140,000 for all four of the *Goldmuntz* actions (Nos. 2011-2013 and 4552);

(ii) $804,000 for Foremost's 16(b) claim;

(iii) $70,846 for the payment of monthly annuities to the follewing persons in the amounts indicated: John Murphy ($100), Joseph Zanini ($100), Louis Collaud ($400), Sheila Gustafson ($150), and Molly Reed ($125);

(iv) $165,000 for the payment of all expenses in defending the four *Goldmuntz* actions (Nos. 2011-2013 and 4552), the Section 16(b) claim of Foremost and the breach of warranty claim of Foremost, as well as expenses incurred in prosecuting the tax refund claims of Provident;

(v) $7,000 for the payment of the remaining accounting and legal expenses of Provident, as well as miscellaneous closing expenses; and

(vi) Provident's interest in the $691,000 principal amount of Foremost Debentures in Escrow, including all interest earned thereon, which Debentures are subject to Foremost's breach of warranty claim.

c) That all assets of Provident, known and unknown, have been duly distributed to the shareholders of Provident, either directly or to the Liquidating Trust;

d) That the accounts of the Directors of Provident be and they are hereby settled and allowed as rendered;

Exhibit L Annexed to Affidavit of Wayne D. Hudson

e) That said Directors of Provident be and they are hereby discharged from their duties and liabilities to creditors or shareholders;

f) That Provident is duly wound-up and that it be and it hereby is dissolved; and

g) For such other and further relief as the Court may deem proper.

Done in open court this 31st day of August, 1970.

Robert W. Merrill
Judge of the Superior Court

Excerpts from Defendant's Answers to Request for Admissions

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-70 460 RHS

[SAME TITLE]

Pursuant to Rule 36 of the Federal Rules of Civil Procedure and for the purposes of this action only and subject to objections which may be interposed at trial, defendant makes the following response to plaintiff's request for admissions under Rule 36, dated April 11, 1971.

• • •

Request No. 28

28. "Exhibit J attached hereto is a true copy of the Underwriting Agreement as executed by Foremost, Provident and Dillon, Read & Co., Inc."

Answer

28. Admitted.

Request No. 29

29. "On October 21, 1969, Foremost filed amendment No. 2 to the form S-1 registration statement with the Securities and Exchange Commission."

Answer

29. Admitted.

Excerpts from Defendant's Answers to Request for Admissions

Request No. 30

30. "Exhibit K attached hereto is a true copy of amendment No. 2 to the form S-1 registration statement filed with the Securities and Exchange Commission."

Answer

30. Admitted.

Request No. 31

31. "At 10:30 A.M. Eastern Standard Time on October 21, 1969, the registration statement covering $25,000,000 principal amount of the Foremost debentures was declared and became effective."

Answer

31. Admitted, except that the time was 10:30 A.M. Eastern Daylight Savings time on October 21, 1969.

Request No. 32

32. "Exhibit L attached hereto is a true copy of the final prospectus covering the $25,000,000 aggregate principal amount of the Foremost debentures used in the underwritten public offering."

Answer

32. Admitted.

Request No. 33

33. "On October 24, 1969, First National City Bank as transfer agent for Foremost mailed $22,227,000 aggregate principal amount of the Foremost debentures to Provident's shareholders pursuant to instructions received from

Excerpts from Defendant's Answers to Request for Admissions

Provident and delivered $23,000 aggregate principal amount of Foremost debentures representing fractional shares to Provident."

Answer

33. Admits, on information and belief, that First National City Bank, trustee and debenture registrar for purposes of transactions involving the Foremost debentures, on October 24, 1969, mailed $22,227,000 aggregate principal amount of the Foremost debentures to Provident's shareholders, the basis of such information and belief being plaintiff's answer, dated July 13, 1970, to defendant's Request for Admission 13; further admits, on information and belief, that First National City Bank received written instructions from Provident directing it to deliver by mail $22,250,000 aggregate principal amount of debentures on October 24, 1969, the basis of such information and belief being the Ennis Affidavit and Exhibit "C" annexed thereto, plaintiff's answer, dated July 13, 1970, to defendant's Request for Admission 12, and plaintiff's answer, dated September 16, 1970 to defendant's Interrogatory 7. Except as so admitted, defendant cannot truthfully admit or deny the matter contained in Request 33.

* * *

Affidavit of Charles de Limur

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-70 460 RHS

[SAME TITLE]

State of California)
City and County of San Francisco) ss.:

CHARLES DE LIMUR, being first duly sworn deposes and says:

I make this sworn statement in opposition to Foremost-McKesson, Inc.'s Motion for Partial Summary Judgment on its counterclaim in the above-entitled action and in support of Provident Securities Company's Motion for Summary Judgment on its complaint for declaratory relief in said action. I am over 21 years of age, and if sworn to testify at the trial of the above-entitled matter, can testify competently to the following facts, all of which are within my personal knowledge.

I served as president of Provident Securities Company, a California corporation (hereinafter referred to as "Provident") from 1967 until the company was dissolved by court order on August 31, 1970. Provident was a family holding company created in 1915 by the four children of William H. Crocker for the purpose of managing the various assets of the Crocker estate. The Crocker descendants and heirs were the shareholders in the company.

When it acquired the Foremost-McKesson, Inc., six per cent convertible subordinated debentures, Provident had no legal or beneficial interest in any security of Foremost-McKesson, Inc. Neither I nor any of my fellow officers or

directors were or ever have been directors or officers of Foremost.

The assets of Provident consisted primarily of marketable securities and real estate, art works and cash. In 1968, Provident hired Dillon, Read & Co. Inc. as its financial advisers to assist its directors and shareholders in determining the future course of the company. After investigation of all relevant considerations, Dillon, Read recommended that Provident should be liquidated either by means of a sale of its assets and distribution of the proceeds or by distribution of its assets if kind. This recommendation was founded on anticipated adverse changes in the tax laws and upon the fact that after several generations of operation, the investment goals of the shareholders had diverged.

Provident and its shareholders accepted this recommendation, and in early 1969, Dillon, Read & Co., Inc., as agent for Provident simultaneously proceeded to prepare a plan of liquidation and to look for a purchaser for Provident's assets.

During the first six months of 1969, Dillon, Read & Co., Inc. investigated possible purchase offers from approximately twenty companies scattered throughout the United States. After sifting all of the possibilities, Provident determined that a proposal by Foremost-McKesson, Inc. (hereinafter referred to as "Foremost"), appeared the most promising. There followed throughout the late summer and early fall intense negotiations between Foremost and Provident.

Because Provident was selling its assets with a view to liquidation of the company, it was primarily interested in receiving cash for its assets, but Foremost for various reasons, including its desire to acquire liquid assets to finance further acquisitions, insisted on paying the major portion of the purchase price in securities of Foremost to be issued

for the purpose of financing the purchase of Provident's assets (namely Foremost six per cent convertible subordinated debentures due June 15, 1994). Provident argued that Foremost should sell said securities to the public itself and then use the proceeds to pay Provident in cash, but this Foremost refused to do.

Because Foremost was unwilling to pay cash, Provident finally agreed that it would accept Foremost debentures in lieu of cash, but insisted that Foremost agree that following the closing of the purchase agreement, Foremost would use its best efforts to ensure a public sale of the Foremost debentures as soon as possible. Again Foremost was unwilling to so commit itself, and after extensive negotiations, a compromise was reached whereby Foremost agreed to effect registration under the Securities Act of 1933 of up to one half of the debentures to be delivered as payment for Provident's assets and to enter into an underwriting agreement as promptly as possible following the closing whereby up to one half of the debentures could be publicly sold through an underwriting group headed by Dillon, Read & Co., Inc.

In late August of 1969, negotiations resulted in a tentative understanding. Foremost would purchase most of Provident's assets for a combination of cash and Foremost debentures which were to be issued expressly for this purpose.

Various draft memoranda were prepared by Dillon, Read & Co., Inc., and Glore Forgan, Wm. R. Staats, Inc. (investment banker for Foremost), incorporating the basic terms. Negotiations continued thereafter and resulted in various adjustments to the terms and the purchase price. True copies of these draft memoranda of August 26, 1969, August 27, 1969, and two dated August 29, 1969, are attached as Exhibits A-1, A-2, A-3 and A-4 to this affidavit.

Negotiations between the two companies continued through September of 1969, and finally culminated in the execution of a Purchase Agreement dated September 25, 1969, which provided that Foremost would purchase approximately two thirds of Provident's assets for $54,000,000, consisting of $49,750,000 aggregate principal amount of Foremost debentures which were to be issued expressly for the purchase of Provident's assets. This purchase price was subject to adjustment depending on the value of assets actually delivered by Provident. A true copy of the Purchase Agreement is attached hereto as Exhibit B.

The Purchase Agreement further provided that, following the closing, Provident "as part of its plan of liquidation and dissolution may distribute to its stockholders the [Foremost] debentures" (Exh. B, par. 5(c)), and that Foremost would use its best efforts to have up to $25,000,000 aggregate principal amount of said debentures registered pursuant to the Securities Act of 1933 and to enter into an underwriting agreement whereby the Provident shareholders would sell the debentures so registered at a public offering (see par. 5(k)(i) of Exh. B hereto).

It was contemplated that all of the debentures delivered by Foremost would be distributed in kind to the Provident shareholders who would in turn be named as selling debenture holders in the underwriting agreement.

The Purchase Agreement set the closing date as October 15, 1969, (see par. 2(a) of Exh. B hereto) and contained numerous conditions which had to be met before that date (see pars. 6 and 7 of Exh. B hereto) among which was a condition that the holders of at least one half of Provident's common stock elect to wind up and dissolve Provident and that the holders of at least two thirds of Provident's preferred stock and one half of Provident's common stock ratify and approve the Purchase Agreement (see par. 7(c) of Exh. B hereto).

While all of the above-described negotiations were proceeding, Provident and its shareholders began procedures to wind up and dissolve Provident. On September 3, 1969, Provident's Board of Directors, at a meeting at which I served as chairman, resolved that it would recommend to the shareholders a plan of complete liquidation and elect to wind up and dissolve the corporation. A true copy of the minutes of said meeting are attached as Exhibit C hereto and accurately reflect what transpired at that meeting.

On September 8, 1969, Foremost submitted to the California Commissioner of Corporations an application for a permit to sell and issue the Foremost debentures to be used in acquiring Provident's assets, a copy of which Provident received (a true copy of the permit application and attachments is attached as Exh. D hereto). An attachment to the permit application states:

> "The purpose of the plan of exchange is to facilitate the proposed liquidation of Provident prior to a vote on the exchange agreement. The shareholders will vote upon a voluntary liquidation of the company. The consummation exchange prior to the liquidation of Provident will give Provident the above-mentioned debentures for distribution to its shareholders. The exchange agreement provides for registration of the debentures under the Securities Act of 1933."

On September 26, 1969, the conditions of approval by the Provident shareholders of the Purchase Agreement and a plan of complete liquidation were satisfied. On said date the Board of Directors of Provident, at a board meeting at which I served as chairman, formally recommended to the Provident shareholders that Provident be wound up and dissolved, that a plan of complete liquidation be approved, and that the shareholders ratify, approve and con-

firm the Purchase Agreement executed the previous day. A true copy of the minutes of the Board of Director's meeting of September 26, 1969, is attached hereto as Exhibit E and accurately reflects what took place at that meeting.

On the same day, the Board's recommendations were submitted to the Provident shareholders at a special shareholders' meeting at which I presided as chairman. The shareholders approved the plan of complete liquidation for winding up and dissolving the corporation and ratified and approved the Purchase Agreement. A true copy of the minutes of the special shareholders' meeting of September 26, 1969, is attached hereto as Exhibit F and accurately reflects what took place at that meeting.

A true copy of the plan of complete liquidation adopted by the shareholders is attached hereto as Exhibit G.

Pursuant to its shareholders' election, Provident on September 29, 1969, filed a certificate of election to wind up and dissolve with the California Secretary of State and mailed notice of its intention to wind up and dissolve to all shareholders and creditors. True copies of the certificate of election and notice are attached hereto as Exhibits H and I respectively.

Because it was contemplated by the parties to the agreement that up to $25,000,000 aggregate principal amount of the Foremost debentures would be sold at a public offering as soon as possible after the closing of the Purchase Agreement, work on the S-1 registration statement under the Securities Act of 1933 proceeded simultaneously with preparation for the closing. On September 29, 1969, an S-1 registration statement was filed with the Securities and Exchange Commission. This S-1 registration statement was subsequently amended on October 3, 1969, and again on October 21, 1969. True copies of the S-1 registration and the two amendments thereto are attached as Exhibits J, K and L respectively.

On October 13, 1969, the Board of Directors of Provident, at a meeting at which I was present, resolved to retire the preferred stock of the corporation pursuant to its liquidation preference and further resolved as follows:

> "RESOLVED, That after full and final payment with respect to the Preferred stock has been made in accordance with the Certificate of Incorporation of the Corporation, the proper officers of the Corporation are authorized and directed to distribute pro rata to shareholders of record upon dates established by them as expeditiously as possible the following assets of the Corporation at the times indicated:
>
> "(a) Crocker National Corporation Stock on or about October 20.
>
> "(b) Foremost-McKesson, Inc. Convertible Subordinated Debentures, as received.
>
> "(c) Cash in excess of that required for reasonable reserves and expenses, as received.
>
> • • •
>
> "RESOLVED, That the President or any Vice President of this Company is hereby authorized to file with the Securities and Exchange Commission a request for acceleration pursuant to Rule 461 and a statement pursuant to item 43 of Release No. 4936 under the Securities Act of 1933, as amended."

At the meeting, I also noted that:

> "The Chairman noted that the shareholders had consented to or were in the process of consenting to an Amendment to the Foremost-McKesson agreement which was designed to permit Provident rather than its shareholders to sell the Debentures."

A true copy of the minutes of said Board of Directors' meeting is attached hereto as Exhibit M and accurately reflect what took place at the meeting.

This latter statement is of particular relevance here. For sometime prior to this meeting, we had been wrestling with the problem of how to effect a public sale of a portion of the Foremost debentures to be received at the closing of the Purchase Agreement on October 15, 1969. The Purchase Agreement, as executed, provided that the shareholders of Provident would make the public offering after distribution of the debentures to them, but we became increasingly aware that this was virtually impossible because of the difficulty in obtaining the necessary consents to sell from minor shareholders and because one of the shareholders, William Crocker, was at places unknown in the Brazilian jungles and could not be contacted. We determined that it would be best if Provident as agent for its shareholders sold the debentures at public offering and then distributed the cash received from those sales to its shareholders. This required a change in the form of the Purchase Agreement to provide that Provident would be the selling debenture holder rather than Provident's shareholders.

Accordingly, on October 9, 1969, I sent a telegram requesting that the various shareholders of Provident attend a selling debenture holders' meeting on October 13th at 2:00 P.M. A true copy of the telegram is attached hereto as Exhibit N. That meeting was, in fact, held on October 13, 1969, and I explained the various alternatives and problems to the shareholders. Attached hereto as Exhibit O is a true copy of the agenda of the meeting on October 13, 1969.

Amendment No. 2 to the form S-1 registration statement (Exh. K hereto) reflects this change as does my letter of October 15, 1969, to the Securities and Exchange Com-

mission pursuant to Item 43 of the Commission's guides for preparation and filing of registration statements. A true copy of that letter is attached hereto as Exhibit P.

The necessary consents to the change in the form of the Purchase Agreement were obtained at the time of that meeting. A true copy of the consent form used for this purpose is attached as Exhibit Q hereto.

On October 15, 1969, the Purchase Agreement between Provident and Foremost closed simultaneously in New York and San Francisco. At that time, Foremost consented to a change in the agreement so as to allow Provident rather than the Provident shareholders to sell up to $25,000,000 aggregate principal amount of Foremost debentures to the public. A copy of Foremost's consent is attached as Exhibit R hereto.

The remainder of the closing procedure was completed on the same day. Foremost delivered to Provident $4,250,000 in cash and $40,000,000 aggregate principal amount of Foremost debentures. Pursuant to paragraph 2(a)(ii) of the Purchase Agreement, Foremost delivered an additional $2,500,000 aggregate principal amount of Foremost debentures to The Bank of America, National Trust and Savings Association as escrow agent. Pursuant to paragraph 2(f) of the Purchase Agreement, the remaining $7,250,000 aggregate principal amount of debentures due under the Purchase Agreement were withheld by Foremost until October 20, 1969, at which time they were delivered to Provident.

On October 16, 1969, I instructed First National City Bank, as trustee under the indenture for the Foremost debentures, to split the $40,000,000 aggregate principal amount Foremost debenture issued on October 15, 1969, into two certificates, one evidencing $25,000,000 principal amount and the other evidencing $15,000,000 principal amount. A true copy of my letter of October 16, 1969, so instructing the bank is attached hereto as Exhibit S.

On October 20, 1969, pursuant to paragraph 2(f) of the Purchase Agreement, Foremost delivered the remaining $7,250,000 aggregate principal amount of Foremost debentures to Provident, and Provident executed bond powers to effect distribution of $22,250,000 worth of aggregate principal amount of debentures to its shareholders. By letter dated October 21, 1969, I ordered distribution of these to the shareholders. A true copy of my letter of October 21, 1969, is attached as Exhibit T hereto, and the actual mailing of the debentures was accomplished on October 24, 1969, with the exception of $23,000 aggregate principal amount of fractional shares which were withheld. A true copy of my letter of October 24, 1969, distributing these debentures is attached as Exhibit U hereto.

On October 21, 1969, Provident, Foremost and Dillon, Read & Co., Inc., as representatives of the underwriting group executed an underwriting agreement whereby Provident was named as selling debenture holder of $25,000,000 aggregate principal amount of Foremost debentures. A copy of the underwriting agreement is attached as Exhibit V hereto. This underwriting agreement closed on October 28, 1969, and on that date, Provident delivered the $25,000,000 aggregate principal amount of debentures to the underwriters, and the underwriters delivered to Provident cash in the amount of $25,366,666.66. On October 29, 1969, Provident distributed this cash to its shareholders. A copy of my letter dated October 29, 1969, distributing to the Provident shareholders cash including the sums received from the underwriters is attached as Exhibit W hereto.

Meanwhile, liquidation had been proceeding on other fronts. Liquidating distributions were made to Provident's shareholders as follows during the month of October:

1. October 20, 1969, the Crocker National Corporation stock. A true copy of my letter accompanying distribution of said stock is attached hereto as Exhibit X.

2. October 30, 1969, the Gulf Resources stock. A true copy of my letter of October distributing said stock is attached hereto as Exhibit Y.

3. On October 31, 1969, cash in the amount of $2,610,000.00 was distributed. A true copy of my letter of October 31 distributing said cash is attached hereto as Exhibit Z.

Liquidation then continued on into 1970. On March 2, 1970, Provident filed a petition for court supervision of the liquidation and dissolution of the company, and on August 31, 1970, pursuant to court order, a copy of which is attached as Exhibit AA hereto, Provident was dissolved and all remaining undistributed assets were transferred to a liquidating trust.

Throughout the period from September 1, 1969, until dissolution of the corporation, I as President and a member of the Board of Directors and my fellow corporate officers and directors were committed to liquidating Provident and considered that our sole duty was to get the assets of Provident into the hands of its individual shareholders as quickly as possible. All of our actions were directed to this end. We considered the change in the Purchase Agreement to provide for sale of the Foremost debentures by Provident in lieu of distribution to the shareholders and sale by them to be no more than a change in form to overcome legal technicalities and simplify the liquidation process.

Executed at San Francisco, California, this 9th day of June, 1971.

Charles de Limur

(Jurat omitted in printing.)

Exhibit A Annexed to Affidavit of Charles de Limur

(Omitted in printing.)

Exhibit B Annexed to Affidavit of Charles de Limur

(Omitted in printing.)

Exhibit C Annexed to Affidavit of Charles de Limur

Minutes

September 3, 1969

Directors' Meeting

A meeting of the Board of Directors of Provident Securities Company adjourned from September 2, 1969 was convened in the Executive Committee Room on the second floor of the Crocker-Citizens National Bank, 1 Montgomery Street, San Francisco, at 2:00 p.m.

Present: Charles de Limur, President, presiding; Norton Adams, Neil Carothers, III, E. Morris Cox, Charles Crocker, Robert Homans, Donald C. Lahey and Emmett G. Salomon, constituting a quorum.

Absent: William H. Crocker.

Assistant Secretary Mary Wheeler also attended the meeting.

Minutes of the previous meeting held on July 16, 1969 were approved as mailed.

After a discussion on the proposal submitted by Foremost-McKesson, Inc., it was moved, seconded and unanimously carried that:

> WHEREAS, the Board of Directors believes that it is in the best interests of the shareholders that the Corporation be liquidated; and
>
> WHEREAS, the Board is in favor in principle of a proposed sale of certain assets of the Corporation to Foremost-McKesson described in and upon terms set forth in a memorandum presented to the Board by Dillon, Read & Co., Inc. and annexed hereto as Exhibit A; and

Exhibit C Annexed to Affidavit of Charles de Limur

WHEREAS, the Board believes that it is in the best interests of the shareholders that the Corporation be liquidated forthwith, whether or not the Foremost-McKesson transaction can be consummated in a timely fashion,

NOW, THEREFORE, BE IT RESOLVED, that the President or any Vice President of the Corporation be authorized to enter into an agreement with Foremost-McKesson for sale of the assets described in Exhibit A (plus any other property of the Corporation acceptable to Foremost-McKesson), such agreement to be consistent with the terms set forth in Exhibit A with only such exceptions as may have been approved by the Board of Directors or a Committee consisting of Messrs. Cox, Charles Crocker, Charles de Limur, Lahey and Solomon, advising with Messrs. John P. Austin and Max Thelen, Jr.; any such agreement shall be subject to shareholder approval and adoption of a plan of complete liquidation;

BE IT FURTHER RESOLVED, that the Board of Directors hereby recommends to the shareholders the adoption of a plan of liquidation of the Corporation, calling for (a) the sale of certain assets of the Corporation to Foremost-McKesson if timely agreement is reached in accordance with the foregoing resolution, and (b) the complete liquidation and distribution of the assets of the Corporation as speedily as practicable whether or not such sale to Foremost-McKesson is consummated, such plan to be approved by the Board or the aforesaid Committee prior to its submission to the shareholders; a meeting of the shareholders is hereby called for September 26, 1969 at 10:00 A.M. at the 1 Montgomery

Exhibit C Annexed to Affidavit of Charles de Limur

Street Board Room of Crocker-Citizens National Bank to vote upon such plan, and that the record date of shareholders entitled to notice of and to vote at such meeting be fixed as at the close of business on September 3, 1969.

In a discussion of the possible sale or liquidation of Provident, it was agreed that the primary legal responsibility for opinions concerning assets of Provident, acquisition papers and agreement, and compliance with S.E.C. regulations, shall be with the firm of Morrison, Foerster, Holloway, Clinton & Clark, who are authorized to confer with Shearman & Sterling as over-all arbiters, as necessary.

Mr. de Limur discussed the employment of an appraiser in connection with any possible liquidation. He stated that the only things of major importance are the pictures, and he recommended the employment of a person well known and knowledgeable in the field of art to look at the twenty-six such items, with the object of establishing their fair market value in New York. After considerable discussion, it was moved, seconded and unanimously carried that Mr. Louis Goldenberg, of Wildenstein & Co., New York, be employed for this purpose and requested to complete the assignment as soon as possible.

Mr. Solomon urged that consideration be given promptly to termination arrangements for the employees of Provident, and Mr. de Limur reported that the committee previously appointed was working on this problem.

In a discussion of the pledge of $50,000 for the 1969 United Bay Area Crusade, it was agreed that this amount should be paid as soon as possible, with the Crusade being notified that this is the final contribution from Provident.

Exhibit C Annexed to Affidavit of Charles de Limur

Messrs. Austin, Latcham, Thelen, Bridges, Nicodemus, Harris, Haskell, Purcell, Field, Frankenheim and Anthony White then joined the meeting.

There followed a discussion of the resolutions regarding liquidation of the Company, the disposition of the art works, and the contingent liabilities of the Company.

There being no further business, the meeting was adjourned at 4:00 p.m.

Donald C. Lahey
Secretary

Exhibit D Annexed to Affidavit of Charles de Limur

Application for Qualification of Securities

(See Opposite ☞)

BEST COPY AVAILABLE

Copy filed San Francisco office
Date 9-8-69
Division of Corporations
By [illegible]

DEPARTMENT OF CORPORATIONS
FILE NO.
(Insert file number of previous filings of Applicant before the Department, if any.)

FEE: $1,500
(To be completed by Applicant. See instructions on reverse side.)

Date of Application: Sept. 8, 1969

DEPARTMENT OF CORPORATIONS
STATE OF CALIFORNIA

FACING PAGE

NOTE: INDICATE THE TYPE OF FILING BY CHECKING THE APPROPRIATE ORIGINAL OR AMENDMENT APPLICATION HEADING SHOWN BELOW.

APPLICATION FOR QUALIFICATION OF SECURITIES BY *(CHECK ONLY ONE)*:

- ☐ COORDINATION, SECTION 25111;
- ☐ NOTIFICATION, SECTION 25112;
- ☐ PERMIT, SECTION 25113;
- ☒ PERMIT, SECTION 25121;
- ☐ NEGOTIATING PERMIT, SECTION 25102 (c)

OF THE CORPORATE SECURITIES LAW OF 1968.

☐ Amendment number _____ to application filed under Section _____ dated _____ *(Check and complete if applicable)*

1. Name of Applicant
Foremost-McKesson, Inc.

2. State whether applicant is a corporation, partnership, trust or other entity, and the State of incorporation or jurisdiction under which organized.
Applicant is a corporation organized and existing under the laws of Maryland.

3. Address of principal executive office of applicant

Number and Street	City	State	Zip Code
111 Pine Street	San Francisco	California	94111

4. Name and address of person to whom correspondence regarding this application should be addressed.
Wayne D. Hudson, Esq., Foremost-McKesson, Inc., 111 Pine St., San Fran., CA
Stephen D. Richards, Esq., Morrison, Foerster, et al., Crocker Plaza, San Fr CA 94

5.

(a) Title of each class of securities being qualified (e.g., "$10 par value common stock")	(b) Total number of shares or units of each class of securities being qualified in California (e.g., "20,000")	(c) Proposed maximum offering price per unit (e.g., "$10")	Proposed maximum aggregate offering price for securities being qualified in California (e.g., "$200,000") Note: Fee calculated on total of this column
Convertible Subordinated Debentures			$49,750,000*
Common Stock, $2 par value (issuable on conversion of debentures)			

(d) Consideration to be paid for securities if other than cash and the value thereof, e.g., "Real Property, $100,000," "Assets of a going business, $50,000."
Assets of a going business, approximate value, $49,750,000

(e) There is no adverse order, judgment or decree entered in connection with the offering by any State regulatory authority, any court or the Securities and Exchange Commission, except as follows: *(if none, so state)*
None

6. State whether this application is for a(n) open or limited coherent qualification *(check as applicable)*.
☐ Open ☐ Limited

7. Applicant, if a corporation, is incorporated in the State of its incorporation.
Yes [illegible]

D

Exhibit D Annexed to Affidavit of Charles de Limur

8. The applicant proposes to acquire all the assets of Provident Securities Company ("Provident"), a California corporation, except (i) certain artworks, (ii) its holdings of Crocker National Corporation and Sierra Railroad Company stocks, and (iii) $12,000,000 worth of marketable securities in exchange for $5,000,000 cash and Convertible Subordinated Debentures of applicant in the principal amount of $49,750,000, subject to adjustment upward to the extent of $2,000,000 cash and the balance in Debentures, and downward by reduction in the principal amount of Debentures to be issued, all as more fully provided in the Exchange Agreement which, it is anticipated, will be executed by applicant and Provident on September 24, 1969. The Exchange Agreement will be submitted as supplemental information to this permit application when available.

The exchange is not subject to the approval of the shareholders of applicant. It is contemplated that the proposal will be submitted to the shareholders of Provident on September 26, 1969. Consummation of the proposed exchange is subject to approval by holders of a majority of the outstanding Common shares and by holders of two-thirds of the outstanding Preferred shares of Provident. There are approximately twenty-five shareholders of Provident who may vote on this matter. No proxies will be solicited; only notice of time, date, place and purpose of the meeting will be given to shareholders in the ordinary course of events as provided by law and the By-laws of Provident.

The purpose of the plan of exchange is to facilitate the proposed liquidation of Provident. Prior to a vote on the Exchange Agreement, the shareholders will vote upon a voluntary liquidation of the Company. The consummation of the exchange prior to the liquidation of Provident will give Provident the above mentioned Debentures for distribution to its shareholders. The Exchange Agreement

Exhibit D Annexed to Affidavit of Charles de Limur

provides for registration of the Debentures under the Securities Act of 1933.

9. Provident, a California corporation, is a personal holding company with investments in marketable securities and real estate. The applicant is a Maryland corporation which resulted from the merger of McKesson & Robbins, Inc. and Foremost Dairies, Inc. on July 19, 1967. Applicant is the nation's largest distributor and operates in such areas as foods, drugs, health care, science, alcoholic beverages, and chemicals. It operates throughout the United States and in twenty-four countries. In fiscal 1969, appellant's sales were over $1.5 billion.

10. There are no dividends in arrears or default in the principal or interest in respect of any securities of the applicant or Provident.

11. There is no market for the Common or Preferred shares of Provident. The Common Stock of applicant into which the Subordinated Convertible Debentures will be convertible is regularly traded on the New York Stock Exchange. The high and low sale prices for each quarterly period within two years will be submitted as supplemental information.

12. The following is a list of the names of the principal officers and directors of applicant and the offices held by each person:

Name	*Position*
John J. Bertrand	Director, President of McKesson Liquor Company, a division of the Corporation, Executive Vice President of the Corporation.
Francis L. Capers	Director, President of McKesson & Robbins Drug Company, a division of the Corporation, Executive Vice President of the Corporation.

Exhibit D Annexed to Affidavit of Charles de Limur

Name	*Position*
Ernest G. de la Ossa	Director, Vice President of the Corporation.
Robert R. Dockson	Director
Rudolph J. Drews	Director, Chairman of the Board and President of the Corporation.
Lamar M. Fearing	Director
Prentis C. Hale	Director
F. Dean Hildebrandt	Director, President of McKesson Chemical Company, a division of the Corporation, Executive Vice President of the Corporation.
Wayne D. Hudson	Director, Vice President, General Counsel and Secretary of the Corporation.
Schuyler Merritt, II	Director, Holder of senior securities of and associated with Glore Forgam, Wm. R. Staats Inc.
William W. Morison	Director, President of Foremost Foods Company, a division of the Corporation, Executive Vice President of the Corporation.
James A. Muller	Director, President of Curtin Scientific Company, a division of the Corporation.
Herman C. Nolen	Director, Retired—former Chairman of the Board of McKesson & Robbins, Inc.
Richard M. Oster	Director, Executive Vice President of the Corporation
Louis A. Petri	Director
Henry Schaefer, Jr.	Director
Carl F. Wente	Director

Exhibit D Annexed to Affidavit of Charles de Limur

The following is a list of the names of the officers and Directors of Provident and the offices held by each person:

Name	*Position*
Charles de Limur	President and Director
Donald C. Lahey	Vice President, Secretary and Treasurer and Director
Frank S. Hanlon	Vice President
Emmett G. Solomon	Director
Robert Homans	Director
E. Morris Cox	Director
Dr. William C. Crocker	Director
Neil Carothers III	Director
Charles Crocker	Director
Norton Adams	Director

13. No directors, officers or person who owns of record or beneficially 10% or more of the outstanding shares of any class of equity securities of the applicant or Provident has any material interest in the transaction.

14. There are attached hereto as exhibits, if applicable, the following which are incorporated by reference:

A. The Financial Statements of applicant and Provident will be submitted as supplemental information.

B. The Exchange Agreement to be entered into by and between applicant and Provident will be forwarded as supplemental information when available.

C. Inapplicable.

Exhibit D Annexed to Affidavit of Charles de Limur

D. The Consent to Service of Process required by Section 25105 of the California Corporations Code which was attached as Exhibit G to a previous application by McKesson & Robbins, Incorporated, the predecessor of applicant, filed on April 28, 1967, and which is still effective, is hereby incorporated by reference.

The applicant has duly caused this application to be signed on its behalf by the undersigned thereunto duly authorized.

FOREMOST-MCKESSON, INC.

By WAYNE D. HUDSON

(Jurat omitted in printing.)

Exhibit E Annexed to Affidavit of Charles de Limur

Minutes

September 26, 1969

Special Directors' Meeting

Upon notice duly given, a special meeting of the Board of Directors of Provident Securities Company, a California corporation, was held at 9:30 o'clock A.M. on September 26, 1969, at One Montgomery Street, San Francisco, California.

The following Directors, constituting a quorum, were present:

Charles de Limur
E. Morris Cox
Robert Homans
Norton Adams
Charles Crocker
Donald C. Lahey
Neil Carothers, III
William H. Crocker

The following Directors were absent:

Emmett G. Solomon

Charles de Limur, President of the Corporation, presided as Chairman of the meeting, and Donald C. Lahey, Secretary of the Corporation, acted as Secretary of the meeting.

The minutes of the last meeting of the Board of Directors held on September 3, 1969, were read and unanimously approved as read.

The Chairman stated that the first order of business was the approval of a plan of complete liquidation of the

Corporation for submission to the shareholders for their approval.

After a full discussion of the foregoing matter, on motion duly made, seconded and unanimously carried, the following resolution was adopted:

> RESOLVED, That this Board recommends to the shareholders that the Corporation be wound up and dissolved and a plan of liquidation as presented to and considered at this meeting and attached hereto as Exhibit A is hereby approved for submission to and recommended to the shareholders for approval.

The Chairman thereupon announced that Foremost-McKesson had agreed with the Corporation to purchase from the Corporation a substantial portion of the assets of the Corporation for Convertible Subordinated Debentures of Foremost-McKesson, Inc., cash and an assumption of liabilities. He noted that the Purchase Agreement was subject to shareholder approval and presented the Purchase Agreement to the meeting.

Upon motion duly made, seconded and unanimously carried, the following resolution was adopted:

> RESOLVED, That the form of Purchase Agreement, as presented to and considered at this meeting, and attached hereto as Exhibit B, is hereby approved, and the action of the President of this Corporation in executing the same on behalf of this Corporation subject to shareholder approval is hereby ratified, approved and confirmed.

The meeting was thereupon temporarily adjourned until after the shareholder meeting. After such meeting the Board reconvened.

It was noted that the Purchase Agreement had been approved by the shareholders. To implement the Agreement it was:

> RESOLVED, That the officers of this Corporation be, and each of them hereby is authorized, empowered and directed to do all things necessary to carry out the terms of the Purchase Agreement and to consummate the Purchase Agreement therein provided for.
>
> RESOLVED, That the President or any Vice President be, and he hereby is, authorized and directed to appoint Crocker-Citizens National Bank Custodian Agent of this Company and to issue appropriate instructions to that Bank as to the custody and disposition of the property of this Company as may be deposited from time to time with that Bank pursuant to such appointment.

The Chairman proposed that authorization be given to transfer securities and property in connection with the liquidation.

> RESOLVED FURTHER, That any two of the following officers, to wit: The President, any Vice President, the Secretary or any Assistant Secretary be, and they hereby are authorized and empowered to sell, transfer or convey stock or other personal property and to execute assignments of certificates of stock or other evidences of ownership of personal property standing in the name of this Company.
>
> RESOLVED FURTHER, That a Plan of Liquidation having been adopted by the shareholders, the President or any Vice President be and they hereby are authorized to sell the securities held by the Corpora-

tion and not to be sold to Foremost as expeditiously as possible, except that stock of Crocker National Corporation shall be distributed pro rata to the shareholders as a liquidating distribution on October 20, 1969, if there is on that date no commitment by the Board of Directors for the Corporation to sell such shares.

The date of the next meeting was set for Friday, October 24, 1969.

There being no further business, on motion duly made, seconded and unanimously carried, the meeting was adjourned.

Donald C. Lahey
Secretary

Exhibit F Annexed to Affidavit of Charles de Limur

Minutes

Special Meeting of Shareholders

Upon notice duly given, a special meeting of the shareholders of Provident Securities Company, a California corporation, was held at 10:00 A.M. on September 26, 1969, at One Montgomery Street, San Francisco, California.

Charles de Limur, President of the Corporation, presided as Chairman of the meeting, and Donald C. Lahey, Secretary of the Corporation, acted as Secretary of the meeting.

The Secretary announced that the holders of record of 77,732 shares of Common Stock as of September 3, 1969 were present, constituting a quorum.

The Chairman stated that there would first be a discussion and then a vote on the question of adoption of a Plan of Complete Liquidation. He noted that a majority vote was required for adoption. After discussion upon motion duly made and seconded, the following resolution was adopted by a vote of the Common Shareholders only, 77,564 shares being voted in favor thereof and 168 shares against:

WHEREAS, the Board of Directors believes that it is in the best interests of the shareholders that the Corporation be liquidated and has approved a Plan of Complete Liquidation for submission to the shareholders for approval;

WHEREAS, the shareholders deem it to be in the best interest of this Corporation and the shareholders to effect a complete liquidation of the Corporation and to wind up and dissolve the Corporation, all in accordance with the Plan of Complete Liquidation approved by the Board of Directors,

Exhibit F Annexed to Affidavit of Charles de Limur

NOW, THEREFORE, BE IT RESOLVED, that the Plan of Complete Liquidation for winding up and dissolving this Corporation, attached hereto as Exhibit A and herein incorporated by reference, be and it hereby is adopted and approved.

The Chairman indicated that a discussion and then a vote on the question of approval of the Purchase Agreement with Foremost-McKesson was the next order of business. He noted that both Common and Preferred shareholders would vote, with a majority vote of the Common and two-thirds vote of the Preferred required for approval. After discussion, upon motion duly made and seconded, the following resolutions were adopted by the vote indicated below:

Common	For 77,564	Against 168
Preferred	For 94,976	Against 672

WHEREAS, the Board of Directors of this Corporation has, subject to shareholder approval, heretofore authorized the execution and delivery of a Purchase Agreement with Foremost-McKesson, Inc. providing for the purchase of a substantial portion of the assets of this Corporation by Foremost-McKesson, Inc.; and

WHEREAS, the President of this Corporation has executed said Purchase Agreement, subject to the conditions, among others, that the required approval of the shareholders of Provident Securities Company be obtained,

NOW, THEREFORE, BE IT RESOLVED, that the shareholders of this Corporation do hereby ratify, approve and consent to the Purchase Agreement, dated September 25, 1969, between this Corporation and Foremost-McKesson, Inc., a copy of which is attached hereto as Exhibit B and incorporated by reference, and the sale of a substantial portion of the assets of the Corporation pursuant thereto.

Exhibit F Annexed to Affidavit of Charles de Limur

There being no further business, on motion duly made, seconded and unanimously carried, the meeting was adjourned.

Donald C. Lahey
Secretary

Exhibit G Annexed to Affidavit of Charles de Limur

Plan of Complete Liquidation

PLAN OF COMPLETE LIQUIDATION OF PROVIDENT SECURITIES COMPANY

This Plan of Complete Liquidation (the "Plan") is intended to accomplish the complete liquidation and dissolution of Provident Securities Company ("Provident"), a California corporation, pursuant to the following steps:

A. The Board of Directors shall adopt a resolution stating that it believes that it is in the best interests of the shareholders that the corporation be liquidated.

B. The Board of Directors shall recommend the adoption of a plan of liquidation by the Common Shareholders ("Common Shareholders") of Provident at a special meeting of all Shareholders to be called by the Board of Directors for that purpose.

C. The Common Shareholders, by the affirmative vote of the holders of at least one-half of the outstanding Common Stock of Provident, at a special meeting of all Shareholders called by the Board of Directors for that purpose, shall adopt the Plan.

Unless the Plan shall receive the affirmative vote of the holders of at least one-half of the outstanding Common Stock of Provident, Provident shall not be wound up and dissolved and the Plan shall not be adopted.

D. Provident shall file a Certificate of Election to Wind Up and Dissolve pursuant to §4603 of the California Corporations Code and shall give the notices to shareholders and creditors required by §4605 of the California Corporations Code.

E. If the holders of at least one-half of the outstanding Common Stock of Provident shall have voted in favor

of the Plan and if Provident shall have entered into one or more agreements to dispose of a substantial part of its assets to a single purchaser, each such agreement shall be put to a vote of the Common and Preferred Shareholders at such special meeting of all Shareholders and if such agreement shall receive the affirmative vote of the holders of at least a majority of the outstanding Common Stock and two-thirds of the Preferred Stock of Provident such agreement shall be approved. Unless the affirmative vote of the holders of at least a majority of the outstanding Common Stock and two-thirds of the Preferred Stock shall be received, the agreement shall not be approved.

F. If the holders of at least one-half of the outstanding Common Stock of Provident shall have voted in favor of the Plan, Provident shall as soon as practicable but in any event within the twelve-month period beginning on the date of the adoption of the Plan by the Shareholders:

(1) Sell or otherwise dispose of its assets and properties in accordance with any agreement approved as provided in Paragraph E above, to the extent therein provided;

(2) Make payment of or adequate provision for all debts and liabilities of Provident not assumed by any purchaser and all expenses of the sales of assets and properties and of liquidation and dissolution;

(3) Pay to the holders of the Preferred Stock in cash their full liquidation preference;

(4) Dispose of its remaining assets by sales to third parties or by sales or distributions to shareholders or the trust or trusts as provided in Paragraphs G through H.

(5) Establish the trust or trusts described in Paragraph F below, if appropriate; and

(6) After taking all other necessary and appropriate action to wind up, file a Certificate of Winding Up and Dissolution pursuant to §5200 of the California Corporations Code.

G. Within the twelve-month period beginning on the date of the adoption of the Plan by the Common Shareholders (but only after the liquidation preference in respect to the Preferred Stock has been paid in cash), Provident shall distribute pro rata to the Common Shareholders proceeds received from the sale of its assets and properties and all other assets of Provident then remaining, except for funds reasonably retained to meet claims against its assets or Provident (other than claims of Shareholders as such), including unascertained or contingent liabilities and expenses, and specifically set aside for that purpose, in complete liquidation of Provident and in exchange for the surrender for cancellation of all of the outstanding shares of Provident's Common Stock. Liquidating distributions shall be made in such amounts, upon such dates and such manner, consistent with the foregoing, without further Shareholder action, as the Board of Directors may determine, and any partial distribution shall be one of a series of two or more distributions in complete liquidation of Provident; provided that all distributions made by Provident as such shall be made within the above-mentioned twelve-month period.

Except to the extent that the Board shall determine that the plan set forth below in this Paragraph G shall be impraetical or inappropriate, it shall be followed in disposing of assets not sold pursuant to an agreement approved as specified in Paragraph E above.

Prior to the sale or other disposition of any objets d'art, books, furniture and furnishings (excluding office furniture and furnishings) ("Art Works") held by Provident at the time of the adoption of the Plan and within 60 days after adoption of the Plan, Provident will cause all Art Works owned by it (other than those referred to in the paragraph immediately below) to be appraised by one or more appraisers of recognized standing. A copy of such appraisal shall be sent to each Common Shareholder within 70 days after adoption of the Plan. Within 15 days after the sending of any such appraisal to the Common Shareholders, any Common Shareholder may purchase for cash any item at such appraised value less 10%; provided, however, that any Common Shareholder having physical possession of such item on the date of adoption of the Plan pursuant to written or oral agreement with Provident shall have the right ("Possession Preference Right") to purchase any such item prior to any other Common Shareholder. If two Common Shareholders wish to purchase the same item and no Possession Preference Right applies, no Common Shareholder may purchase unless all but one Common Shareholder withdraws his bid to purchase.

On or prior to October 21, 1969 any one or more of the Art Works described in the 1954 appraisal by Parke-Bernet (which is on file in the office of the corporation) and valued therein at $500 or less may be purchased by any Common Shareholder for cash at such appraised value, provided, however, that any Common Shareholder having physical possession of such item under written or oral agreement with Provident on the date of adoption of the Plan shall have a Possession Preference Right. If two Common Shareholders wish to purchase the same item and no Possession Preference Right applies, no Common Shareholder may purchase unless all but one Common Shareholder withdraws his bid to purchase.

Any Art Works not sold to a Shareholder under the preceding two paragraphs shall be sold.

Property of the Company may be sold to any Shareholder, group of Shareholders or group comprised of one or more Shareholders and others, as well as to persons and entities who are not Shareholders.

H. Provident may enter into a trust agreement or agreements with any trustee or trustees. Provident may at any time transfer any assets (other than cash and marketable securities except as required to meet reserve requirements) to a trust in lieu of transferring such assets to the Common Shareholders. Not later than the expiration of twelve months following the date of adoption of the Plan by the Common Shareholders, Provident may transfer to a trust (a) any uncollected claims, contingent assets (including claims for refund of taxes or for proceeds of insurance) or other assets which may not be converted into cash prior to the expiration of said twelve-month period or which it is not practicable to distribute directly to the Common Shareholders within said twelve-month period, and (b) any funds of Provident reasonably retained to pay claims (including unascertained or contingent liabilities and expenses) and specifically set aside for that purpose which may not be disbursed prior to the expiration of said twelve-month period.

I. The affirmative vote of the holders of at least one-half of the outstanding Common Stock of Provident in favor of the Plan shall constitute full and complete authority to the proper officers of Provident, without further director or stockholder action except director approval of liquidating distributions made within the above-mentioned twelve-month period, to do and perform any and all acts and to make, execute and deliver any and all agreements,

conveyances, assignments, transfers, certificates and other documents of every kind and character which such officers deem necessary or appropriate:

(i) to sell, convey, transfer and deliver all the assets and properties of Provident substantially in accordance with the terms and conditions so authorized and approved by the directors and/or stockholders, as the case may be, and

(ii) following such sales to distribute all of the assets and properties of Provident to the stockholders or to the trustee or trustees for their benefit to the extent provided in Paragraph G, and

(iii) to wind up and dissolve Provident in accordance with the laws of the State of California and to evidence such winding up and dissolution and its cessation from doing business and/or its withdrawal from all jurisdictions in which it is authorized to do business.

Exhibit H Annexed to Affidavit of Charles de Limur

Dissolution Certificate

STATE OF CALIFORNIA

[SEAL]

DEPARTMENT OF STATE

To all whom these presents shall come, Greetings:

I, FRANK M. JORDAN, Secretary of State of the State of California, hereby certify:

That the annexed transcript has been compared with the RECORD on file in my office, of which it purports to be a copy, and that the same is full, true and correct.

In testimony whereof, I, FRANK M. JORDAN, Secretary of State, have hereunto caused the Great Seal of the State of California to be affixed and my name subscribed, at the City of Sacramento, in the State of California, this Oct 1 1969.

[SEAL]

Frank M. Jordan
Secretary of State

By (signature illegible)
Assistant Secretary of State

Exhibit H Annexed to Affidavit of Charles de Limur

CERTIFICATE OF ELECTION TO WIND UP AND DISSOLVE
PROVIDENT SECURITIES COMPANY

The undersigned, Charles de Limur and Donald C. Lahey, do hereby certify that they are now, and during all times mentioned herein have been, the duly electing and acting President and Secretary, respectively, of PROVIDENT SECURITIES COMPANY, a California corporation, and they do hereby further certify as follows:

1. Provident Securities Company, a California corporation, has elected to wind up its affairs and voluntarily dissolve.

2. The total number of issued and outstanding shares of Common Stock of the Corporation is 87,000, constituting all the outstanding shares, the holders of which are entitled to vote for the election of the Corporation to wind up and dissolve.

3. The election to wind up and dissolve said Corporation was made by the affirmative vote of the holders of record of 77,564 shares of Common Stock of said Corporation representing 89.15% of the voting power of said Corporation.

IN WITNESS WHEREOF, the undersigned have executed this certificate this 26th day of September, 1969.

CHARLES DE LIMUR

Charles de Limur, President

DONALD C. LAHEY

Donald C. Lahey, Secretary

Exhibit H Annexed to Affidavit of Charles de Limur

Each of the undersigned declares under penalty of perjury that the foregoing is true and correct of his own knowledge.

Executed at San Francisco, California, on September 26, 1969.

CHARLES DE LIMUR

Charles de Limur, President

DONALD C. LAHEY

Donald C. Lahey, Secretary

Exhibit I Annexed to Affidavit of Charles de Limur

Notice

[LETTERHEAD OF]

PROVIDENT SECURITIES COMPANY
1 Montgomery Street, Room 907
San Francisco, Calif. 94104

NOTICE OF COMMENCEMENT OF PROCEEDINGS
TO WIND UP AND DISSOLVE

To all Shareholders, Creditors and Claimants of
PROVIDENT SECURITIES COMPANY:

Notice is hereby given that Provident Securities Company, whose principal office is located at One Montgomery Street, San Francisco, California, has elected to wind up its affairs and dissolve.

The proceedings for winding up and dissolution commenced on the 26th day of September, 1969, on which date Shareholders representing at least 50% of the voting power of the Corporation adopted a resolution electing to wind up and dissolve the Corporation.

By order of the Board of Directors.

Dated: September 29, 1969.

Mary McD. Wheeler

Assistant Secretary of Provident
Securities Company

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Exhibit J Annexed to Affidavit of Charles de Limur

Form S-1

(See Opposite ☞)

Registration No. 2-

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D. C. 20549

FORM S-1

REGISTRATION STATEMENT

Under

THE SECURITIES ACT OF 1933

Foremost-McKesson, Inc.

(Exact name of registrant specified in charter)

111 Pine Street
San Francisco, California 94111
(Address of principal executive offices)

WAYNE D. HUDSON, Esq.
Vice President, General Counsel
and Secretary
Foremost-McKesson, Inc.
111 Pine Street
San Francisco, California 94111

WHITE & CASE
14 Wall Street
New York, New York 10005

(Name and address of agents for service)

Approximate date of commencement of proposed sale to the public: As soon as practicable after the Registration Statement becomes effective.

CALCULATION OF REGISTRATION FEE

Title of each class of securities being registered	Amount being registered	Proposed maximum offering price per share	Proposed maximum aggregate offering price	Amount of registration fee
6% Convertible Subordinated Debentures due June 15, 1994	$25,000,000	101%*	$25,250,000*	$5,050
Common Stock, par value $2 per share	**	**	**	

* Estimated for the purpose of the above calculation only and not a representation as to the actual proposed offering price.

** Such indeterminate number of shares of Common Stock as may be issuable upon conversions of the Debentures being registered hereunder.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

***

EXHIBIT

(15)

PRELIMINARY PROSPECTUS DATED SEPTEMBER 29, 1969

$25,000,000

Foremost-McKesson, Inc.

6% Convertible Subordinated Debentures due June 15, 1994

The Debentures offered hereby are outstanding Debentures which have been issued pursuant to an Indenture under which an aggregate of $49,750,000 principal amount of Debentures (the "Debentures") are authorized to be issued. The Debentures offered hereby are being purchased by the Underwriters from certain debentureholders named herein under "Selling Debentureholders". The Company will not receive any part of the proceeds from the sale of such Debentures.

The Debentures are convertible at any time prior to maturity, unless previously redeemed, into shares of Common Stock of the Company at a conversion rate of shares per each $1,000 principal amount of Debentures, subject to adjustment under certain conditions. The reported closing price of the Common Stock on the New York Stock Exchange on September 25, 1969 was $26⅛.

The Debentures are entitled to annual sinking fund payments on June 15 in each of the years 1980 through 1993, equal to 6% of the principal amount of the Debentures outstanding at the close of business on April 30, 1980, sufficient to retire 84% of the Debentures prior to maturity, and are redeemable on 30 days' notice (i) at any time at the optional redemption prices set forth herein and (ii) for the sinking fund on June 15, 1980 and each June 15 thereafter at 100%, plus accrued interest in each case. The Debentures are subordinated to other indebtedness for money borrowed as set forth in "Description of the Debentures."

The Debentures are issuable in fully registered form only in denominations of $1,000 and multiples thereof.

The Company intends to apply for listing of the Debentures on the New York Stock Exchange.

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

	Price to Public(1)	Underwriting Commissions	Proceeds to Selling Debentureholders(1)(2)
Per Debenture	%	%	%
Total	$	$	$

(1) Plus accrued interest from October 15, 1969.

(2) Before deduction of the expenses of this offering payable by the Selling Debentureholders estimated at $. The other expenses of this offering, estimated at $, are payable by the Company.

(3) Reference is made to "Selling Debentureholders" and "Underwriting" herein for information with respect to indemnification against certain civil liabilities, including liabilities under the Securities Act of 1933.

The Debentures offered hereby are being offered by the Underwriters as set forth under "Underwriting" herein. It is expected that such Debentures will be ready for delivery on or about October , 1969 at the office of Dillon, Read & Co. Inc., New York, N. Y., against payment therefor in New York funds. The Underwriters include:

Dillon, Read & Co. Inc.

The date of this Prospectus is October , 1969.

* * *

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THE COMPANY

Foremost-McKesson, Inc. is a Maryland corporation which resulted from the merger on July 19, 1967 of Foremost Dairies, Inc. (herein called "Foremost"), whose business originated in 1931, and McKesson & Robbins, Incorporated (herein called "McKesson"), a corporation organized in 1928. The principal offices of Foremost-McKesson, Inc. are located at 111 Pine Street, San Francisco, California. Reference herein to the "Company" includes Foremost-McKesson, Inc. and its subsidiaries unless the context otherwise requires.

The Company is primarily engaged in the wholesale distribution of drugs; the processing and distribution of milk, cream, ice cream and related dairy products; the wholesale distribution of wines and liquors; and the wholesale distribution of industrial chemicals.

THE DEBENTURES

The Debentures offered hereby were acquired by the Selling Debentureholders upon a liquidating distribution of Provident Securities Company, approximately two-thirds of the assets of which were purchased by the Company on October 15, 1969 in exchange for an aggregate of a maximum of $49,750,000 principal amount of 6% Convertible Subordinated Debentures due June 15, 1994, $4,250,000 in cash and the assumption of certain liabilities of Provident Securities Company. The final purchase price for such assets is subject to adjustment after the preparation of a closing balance sheet (see "Business and Properties—Recent Developments" herein).

* * *

PRO FORMA FINANCIAL INFORMATION

The pro forma condensed balance sheet shown below gives effect to the acquisition as of October 15, 1969 by the Company of certain assets of Provident Securities Company in exchange for $49,750,000 of the Company's 6% Convertible Subordinated Debentures due June 15, 1994 and $4,250,000 in cash under a Purchase Agreement dated September 25, 1969; see "Business and Properties—Recent Developments" herein. Amounts shown in the Company's audited consolidated balance sheet as of March 31, 1969 have been combined with assets acquired and liabilities incurred on the dates described in the notes.

ASSETS

	Foremost-McKesson	Pro Forma Adjustments	Total
		(Thousands of Dollars)	
Current assets	$404,155	$28,378(1)	$432,533
Investments and advances	34,106	25,443(2)	59,549
Property, plant and equipment—net	82,162	—	82,162
Other assets	2,521	179	2,700
Total	$522,944	$54,000	$576,944

LIABILITIES

Current liabilities	$160,239	$ 4,250(3)	$164,489
Long-term debt	165,999	49,750(4)	215,749
Deferred Federal income tax and other deferred credits	5,714	—	5,714
Stockholder equity	190,992	—	190,992
Total	$522,944	$54,000	$576,944

Notes:

Assets acquired by the Company (October 15, 1969):

(1) Consists of:

Short-term investments:	
Capital stocks—at market value	$23,850,000
Other capital stocks, bonds and notes—at Provident's cost which approximates market	3,900,000
Cash (net of estimated Company expenses attributable to the transaction) and other current assets	628,000
Total	$28,378,000

(2) Consists of:

Investment in capital stock of Crocker Estate Company representing 38.9% interest in securities at market value, real estate equities at appraised value and other assets	$15,070,000
Income-producing properties and undeveloped land at appraised values less related debt of $8,254,000 (these assets and debt to be reflected in a newly-formed wholly-owned subsidiary)	8,239,000
Other investments and advances	2,134,000
Total	$25,443,000

Liabilities incurred by the Company:

(3) Represents short-term bank borrowing to satisfy the cash portion of the purchase price.

(4) Represents 6% convertible subordinated debentures due June 15, 1994.

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The pro forma condensed earnings shown below are based on the Company's audited statement of consolidated income for the year ended March 31, 1969 on the bases described in the notes. The results shown do not purport to represent what the results would have been if the Company had held the aforementioned assets and owed the aforementioned liabilities during the period.

	Foremost-McKesson	Pro Forma Adjustments	Total
		(Thousands of Dollars)	
Income before interest and Federal income tax	$59,008	$ 695 (1)	$59,703
Interest	10,428	3,346 (2)	13,774
Income before Federal income tax	48,580	(2,651)	45,929
Federal income tax	22,975	(1,698) (3)	21,277
Net income	$25,605	$ (953)	$24,652
Per share of common stock:			
Primary earnings	$1.92	$(.09)	$1.83
Fully diluted earnings	1.69	(.15) (4)	1.54

Notes:

(1) Represents:

Operating income from properties and other assets acquired by the Company from Provident as derived from Provident's audited statement of income for the year ended December 31, 1968	$495,000
Reduction in California franchise tax applicable to excess of interest on $54,000,000 of liabilities incurred by the Company over income indicated above	200,000
Total	$695,000

(2) Represents interest on $49,750,000 of 6% convertible subordinated debentures ($2,985,000) and $4,750,000 of bank borrowings at the prime rate of 8½% ($361,000).

(3) Represents Federal income tax at the Company's current rates applicable to the above adjustments.

(4) Represents additional dilution assuming conversion of $49,750,000 of 6% convertible subordinated debentures into 1,658,000 shares of common stock, based on the September 25 closing price of the Company's common stock.

DIVIDENDS

The annual dividend rate on the Company's Common Stock has been 75¢ per share since May 1968 when it was increased from 50¢ per share. Such rate is subject to change at any time by the Board of Directors. The declaration and payment of dividends by the Company in the future will necessarily be subject to its earnings and financial condition and other factors as appraised by the Board of Directors. For information with respect to restrictions upon the payment of dividends reference is made to the headings "Description of the Debentures" and "Description of Common Stock" herein.

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* * *

Competition

In its domestic dairy business, the Company has active competition from national, regional and local dairy companies. In its distribution of drugs, chemicals and wines and liquors, the Company has active competition, both from regional and local wholesalers and from direct distribution by manufacturers.

Employees

The Company and its subsidiaries have approximately 17,700 employees, approximately 8,700 of whom are covered by agreements with labor unions. The Company regards its relations with its employees as satisfactory.

Properties

Because of the nature of the Company's lines of business, numerous plants and warehousing facilities are operated in widely scattered locations and no facility is of such importance to the business as a whole that it can be regarded as a principal facility. The Company considers that its operating properties are generally well maintained, in satisfactory condition and effectively utilized.

Milk and ice cream processing plants are, in general, located centrally in the distribution areas which they serve. Cheese, butter and milk by-products plants are located in or near milk producing areas. Whey processing plants are located in cheese producing areas, principally in Wisconsin.

The Company's McKesson operating companies generally operate as distributors from separate warehouses which are usually owned or leased on a long-term basis. These include approximately 81 owned and 162 leased warehouses. In addition, 53 public warehouses are used as local chemical stock points.

Recent Developments

Provident Securities Company

On September 25, 1969 the Company entered into a Purchase Agreement with Provident Securities Company ("Provident"), a personal holding company with assets consisting mainly of marketable common stocks, real estate in or near San Francisco and a minority interest in another corporation with similar assets. Under the terms of such agreement the Company has acquired approximately two-thirds of the assets of Provident and assumed certain liabilities of Provident in exchange for $54,000,000, consisting of $49,750,000 aggregate principal amount of the Company's 6¾ Convertible Subordinated Debentures due June 15, 1994 and $4,250,000 in cash (see "Pro Forma Financial Information"). Such purchase price is subject to adjustment based upon reports of certified public accountants to be prepared as soon as is practicable after the closing on October 15, 1969. It is anticipated that the Debentures issued to Provident will be distributed by Provident to its shareholders.

The Purchase Agreement provides for registration under the Securities Act of 1933 of Debentures in addition to those being offered by this Prospectus under certain conditions during the 60 month period beginning with the first issuance of the Debentures, and that any public offering of Debentures must be made through Dillon, Read & Co. Inc. or another underwriter selected by the Debentureholders and acceptable to the Company.

In connection with this transaction Glore Forgan, Wm. R. Staats Inc. is to receive a fee of $200,000 from the Company. Mr. Schuyler Merritt, II, a Director of the Company, is a holder of senior securities of and associated with such firm. The stockholders of Provident are to pay Dillon, Read & Co. Inc. a fee for financial advice in connection with this transaction, aggregating $250,000.

"21" Brands, Inc.

The Company and "21" Brands, Inc. ("Brands") have entered into an agreement dated September 5, 1969 pursuant to which Brands will become a wholly-owned subsidiary of the Company and the stockholders of Brands will receive an aggregate of approximately 994,000 shares of Common Stock of the Company. Consummation of the transaction is subject to various conditions, including approval by the stockholders of Brands prior to December 31, 1969 and receipt of necessary approvals by regulatory authorities, and may be terminated if the average selling price of the Company's Common Stock on the New York Stock Exchange is less than $27 per share, for the ten trading days immediately preceding clearance of Brands' proxy material by the Securities and Exchange Commission and in certain other circumstances.

Brands' unaudited net sales and net income for its fiscal year ended June 30, 1969 amounted to approximately $57,500,000 and $1,500,000, respectively. Based upon such results it is not expected that the Company's earnings per share will be materially diluted as a result of this acquisition which will be treated as a pooling of interests for accounting purposes.

Brands is engaged in the business of distributing imported and American whiskies and wines through independent distributors. It is sole agent in the United States for a variety of products including Ballantine's Scotch Whiskey, Ballantine's Gin, Tribuno Vermouth and Macintosh Scotch Whiskey. The latter whiskey is imported in bulk by Brands and bottled in the United States.

Brands also owns a distillery near Frankfort, Kentucky, at which various "21" Brands bourbons and whiskies and spirit blends are produced. A subsidiary, Mohawk Liqueur Corporation, rectifies, bottles, and distributes liqueurs, cordials, gins, rums and vodkas. Because of restrictions existing in various state laws applicable to the Company as a distributor of wines and liquors, the Company proposes to discontinue or divest itself of the distilling functions performed by Brands which functions are not considered by the Company to be significant.

The Company has received routine inquiries from the Federal Trade Commission and the Justice Department with respect to this acquisition. No objection, however, is expected.

MANAGEMENT

The directors and principal officers of the Company are as follows:

Name	Office
Rudolph J. Drews	Chairman of the Board and President
Richard M. Oster	Executive Vice President and Director
John J. Bertrand	Executive Vice President, Director and President of McKesson Liquor Company
Francis L. Capers	Executive Vice President, Director and President of McKesson & Robbins Drug Company
F. Dean Hildebrandt	Executive Vice President, Director and President of McKesson Chemical Company

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SELLING DEBENTUREHOLDERS

The following table sets forth (a) the name and address of each Selling Debentureholder, (b) the aggregate principal amount of Debentures owned by such holder, (c) the aggregate principal amount of Debentures being offered by such holder and (d) the aggregate principal amount of Debentures to be owned by such holder after this offering:

Name	Amount owned	Amount to be offered	Amount to be owned after offering

[To Be Supplied]

The Selling Debentureholders may be considered to be underwriters as that term is defined under the Securities Act of 1933. The Company has agreed to indemnify the Selling Debentureholders and the Underwriters against certain civil liabilities, including liabilities under the Securities Act of 1933.

DESCRIPTION OF THE DEBENTURES

The Debentures being offered hereby have been issued under an indenture (the "Indenture") dated as of October 15, 1969, between the Company and First National City Bank, Trustee, providing for the issuance of up to $49,750,000 aggregate principal amount of Debentures (see "The Debentures" and "Business and Properties—Recent Developments"). A copy of the Indenture is filed as an exhibit to the Registration Statement. References are to the Indenture and wherever particular provisions are referred to, such provisions are incorporated by reference as a part of the statement made, and the statement is qualified in its entirety by such references. Wherever a defined term is indicated, the definition thereof is contained in the Indenture.

General

The Debentures are issuable in fully registered form only, bear interest from October 15, 1969 at 6% per annum and mature on June 15, 1994. Principal is payable at the principal office of the Trustee in New York City. Interest, payable semi-annually on June 15 and December 15, is, subject to certain exceptions, to be paid to the persons in whose names the Debentures are registered at the close of business on the last day of the month preceding each semi-annual interest payment date, and, unless other arrangements are made, is to be paid by checks mailed to such persons at their registered addresses. (Article Two.) The Debentures are not secured by any lien and the payment thereof is subordinated to the payment of other indebtedness as hereinafter described.

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A114

Exhibit K Annexed to Affidavit of Charles de Limur

Form S-1—Amendment No. 1

(See Opposite ☞)

...filed with the Securities and Exchange Commission on October 3, 1969.

Registration No. 2-34887

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D. C. 20549

AMENDMENT NO. 1

To

FORM S-1

REGISTRATION STATEMENT

Under

THE SECURITIES ACT OF 1933

PAGE A115

Foremost-McKesson, Inc.

(Exact name of registrant specified in charter)

111 Pine Street
San Francisco, California 94111
(Address of principal executive offices)

WAYNE D. HUDSON, Esq.
Vice President, General Counsel
and Secretary
Foremost-McKesson, Inc.
111 Pine Street
San Francisco, California 94111

WHITE & CASE
14 Wall Street
New York, New York 10005

(Name and address of agents for service)

Approximate date of commencement of proposed sale to the public: As soon as practicable after the Registration Statement becomes effective.

CALCULATION OF REGISTRATION FEE

Title of each class of securities being registered	Amount being registered	Proposed maximum offering price per share	Proposed maximum aggregate offering price	Amount of registration fee
6% Convertible Subordinated Debentures due June 15, 1994	$25,000,000	101%*	$25,250,000*	$5,050
Common Stock, par value $2 per share	**	**	**	

* Estimated for the purpose of the above calculation only and not a representation as to the actual proposed offering price.

** Such indeterminate number of shares of Common Stock as may be issuable upon conversions of the Debentures being registered hereunder.

The registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

***

EXHIBIT

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PRELIMINARY PROSPECTUS DATED OCTOBER 3, 1969

$25,000,000

Foremost-McKesson, Inc.

6% Convertible Subordinated Debentures due June 15, 1994

The Debentures offered hereby are outstanding Debentures which have been issued pursuant to an Indenture under which an aggregate of $49,750,000 principal amount of Debentures (the "Debentures") are authorized to be issued and are being purchased by the Underwriters from certain debentureholders named herein under "Selling Debentureholders". The Company will not receive any part of the proceeds from the sale of such Debentures.

The Debentures are convertible at any time prior to maturity, unless previously redeemed, into shares of Common Stock of the Company at a conversion price of $ per share, subject to adjustment under certain conditions. The reported closing price of the Common Stock on the New York Stock Exchange on October 2, 1969 was $28[illegible].

The Debentures are entitled to a Sinking Fund beginning June 15, 1980, as more fully set forth herein, sufficient to retire 84% of the Debentures prior to maturity, and are redeemable on 30 days' notice at any time at the optional redemption prices set forth herein. The Debentures are subordinated to other indebtedness for money borrowed as set forth herein under "Description of the Debentures."

The Debentures are issuable in fully registered form only in denominations of $1,000 and multiples thereof.

Application will be made to list the Debentures on the New York Stock Exchange.

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

	Price to Public (1)	Underwriting Commissions	Proceeds to Selling Debentureholders (1) (2)
Per Debenture	%	%	%
Total	$	$	$

(1) Plus accrued interest from October 15, 1969.

(2) Before deduction of the expenses of this offering payable by the Selling Debentureholders estimated at $. The other expenses of this offering, estimated at $, are payable by the Company.

(3) Reference is made to "Selling Debentureholders" and "Underwriting" herein for information with respect to indemnification against certain civil liabilities, including liabilites under the Securities Act of 1933.

The Debentures offered hereby are being offered by the Underwriters as set forth under "Underwriting" herein. It is expected that such Debentures will be ready for delivery on or about October , 1969 at the office of Dillon, Read & Co. Inc., New York, N. Y., against payment therefor in New York funds. The Underwriters include:

Dillon, Read & Co. Inc.

The date of this Prospectus is October , 1969.

* * *

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THE COMPANY

Foremost-McKesson, Inc. is a Maryland corporation which resulted from the merger on July 19, 1967 of Foremost Dairies, Inc. (herein called "Foremost"), whose business originated in 1931, and McKesson & Robbins, Incorporated (herein called "McKesson"), a corporation organized in 1928. The principal offices of Foremost-McKesson, Inc. are located at 111 Pine Street, San Francisco, California. Reference herein to the "Company" includes Foremost-McKesson, Inc. and its subsidiaries unless the context otherwise requires.

The Company is primarily engaged in the wholesale distribution of drugs; the processing and distribution of milk, cream, ice cream and related dairy products; the wholesale distribution of wines and liquors; and the wholesale distribution of industrial chemicals.

THE DEBENTURES

The Debentures offered hereby were acquired by the Selling Debentureholders upon a liquidating distribution of Provident Securities Company, approximately two-thirds of the assets of which were purchased by the Company on October 15, 1969 in exchange for an aggregate of a maximum of $49,750,000 principal amount of 6% Convertible Subordinated Debentures due June 15, 1994, $4,250,000 in cash and the assumption of certain liabilities of Provident Securities Company. The final purchase price for such assets is subject to adjustment after the preparation of a closing balance sheet (see "Business and Properties—Recent Developments" herein).

* * *

PRO FORMA FINANCIAL INFORMATION

The pro forma condensed balance sheet shown below gives effect to the acquisition as of October 15, 1969 by the Company of certain assets of Provident Securities Company in exchange for $49,750,000 of the Company's 6% Convertible Subordinated Debentures due June 15, 1994 and $4,250,000 in cash under a Purchase Agreement dated September 25, 1969 (see "Business and Properties—Recent Developments" herein). Amounts shown in the Company's audited consolidated balance sheet as of March 31, 1969 have been combined with assets acquired and liabilities incurred on the bases described in the notes.

ASSETS

	Foremost-McKesson	Pro Forma Adjustments	Total
		(Thousands of Dollars)	
Current assets	$404,155	$28,378(1)	$432,533
Investments and advances	34,106	25,443(2)	59,549
Property, plant and equipment—net	82,162	—	82,162
Other assets	2,521	179	2,700
Total	$522,944	$54,000	$576,944

LIABILITIES

Current liabilities	$160,239	$ 4,250(3)	$164,489
Long-term debt	165,999	49,750(4)	215,749
Deferred Federal income tax and other deferred credits	5,714	—	5,714
Stockholder equity	190,992	—	190,992
Total	$522,944	$54,000	$576,944

Notes:

Assets acquired by the Company (October 15, 1969):

(1) Consists of:

Short-term investments:	
Capital stocks—at market value	$23,850,000
Bonds and notes—at Provident's cost which approximates market	3,900,000
Cash (net of estimated Company expenses attributable to the transaction) and other current assets	628,000
Total	$28,378,000

(2) Consists of:

Investment in capital stock of Crocker Estate Company representing 38.9% interest in securities at market value, real estate equities at appraised value and other assets	$15,070,000
Income-producing properties and undeveloped land at appraised values less related debt of $8,254,000 (these assets and debt to be reflected in a newly-formed wholly-owned subsidiary)	8,239,000
Other investments and advances	2,134,000
Total	$25,443,000

Liabilities incurred by the Company:

(3) Represents short-term bank borrowing to satisfy the cash portion of the purchase price.

(4) Represents 6% convertible subordinated debentures due June 15, 1994.

(57)

The pro forma condensed earnings shown below are based on the Company's audited statement of consolidated income for the year ended March 31, 1969 and the historical financial information of Provident on the bases described in the notes. As set forth in the next paragraph hereof, the Company does not believe that the results shown represent what the results would have been if the Company had held the aforementioned assets and owed the aforementioned liabilities of Provident during the period.

	Foremost-McKesson	Pro Forma Adjustments	Total
		(Thousands of Dollars)	
Income before interest and Federal income tax	$59,008	$ 984 (1)	$59,992
Interest	10,428	3,346 (2)	13,774
Income before Federal income tax	48,580	(2,362)	46,218
Federal income tax	22,975	(1,684)(3)	21,291
Net income	$25,605	$ (678)	$24,927
Per share of common stock:			
Primary earnings	$1.92	$(.06)*	$1.86*
Fully diluted earnings	1.69	(.13)(4)*	1.56*

NOTES:

(1) Represents:

Operating income from properties and other assets acquired by the Company from Provident as derived from Provident's audited statement of income for the year ended December 31, 1968	$806,000
Reduction in California franchise tax applicable to excess of interest on $54,000,000 of liabilities incurred by the Company over income indicated above	178,000
Total	$984,000

(2) Represents interest on $49,750,000 of 6% convertible subordinated debentures ($2,985,000) and $4,250,000 of bank borrowings at the prime rate of 8½% ($361,000).

(3) Represents Federal income tax at the Company's current rates applicable to the above adjustments.

(4) Represents additional dilution assuming conversion of $49,750,000 of 6% convertible subordinated debentures into 1,659,000 shares of common stock, based on the September 25 closing price of the Company's common stock.

* Based on the assumption that the Provident assets have been held for a full year and also on the assumption that they will be retained in their present form which is contrary to the Company's intention.

As soon as practicable after its acquisition of assets from Provident the Company intends to sell the short-term investments and a substantial part of Provident's real estate (see Notes 1 and 2 to the pro forma condensed balance sheet). The proceeds thereof may be used by the Company in connection with acquisitions or for general corporate purposes. No commitment, option or offer to acquire any material company or business is outstanding except as set forth under "Business and Properties—Recent Developments" herein. Until the proceeds are required for these purposes, they may be invested by the Company in short-term obligations.

DIVIDENDS

The annual dividend rate on the Company's Common Stock has been 75¢ per share since May 1968 when it was increased from 50¢ per share. Such rate is subject to change at any time by the Board of Directors. The declaration and payment of dividends by the Company in the future will necessarily be subject to its earnings and financial condition and other factors as appraised by the Board of Directors. For information with respect to restrictions upon the payment of dividends reference is made to the headings "Description of the Debentures" and "Description of Common Stock" herein.

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Competition

In its domestic dairy business, the Company has active competition from national, regional and local dairy companies. In its distribution of drugs, chemicals and wines and liquors, the Company has active competition, both from regional and local wholesalers and from direct distribution by manufacturers.

Employees

The Company and its subsidiaries have approximately 17,700 employees, approximately 8,700 of whom are covered by agreements with labor unions. The Company regards its relations with its employees as satisfactory.

Properties

Because of the nature of the Company's lines of business, numerous plants and warehousing facilities are operated in widely scattered locations and no facility is of such importance to the business as a whole that it can be regarded as a principal facility. The Company considers that its operating properties are generally well maintained, in satisfactory condition and effectively utilized.

Milk and ice cream processing plants are, in general, located centrally in the distribution areas which they serve. Cheese, butter and milk by-products plants are located in or near milk producing areas. Whey processing plants are located in cheese producing areas, principally in Wisconsin.

The Company's McKesson operating companies generally operate as distributors from separate warehouses which are usually owned or leased on a long-term basis. These include approximately 81 owned and 162 leased warehouses. In addition, 53 public warehouses are used as local chemical stock points.

Recent Developments

Provident Securities Company

On September 25, 1969 the Company entered into a Purchase Agreement with Provident Securities Company ("Provident"), a personal holding company with assets consisting mainly of marketable common stocks, real estate in or near San Francisco and a minority interest in another corporation (Crocker Estate Company) with assets consisting mainly of real estate in or near San Francisco and marketable common stocks. Under the terms of such agreement the Company has acquired approximately two-thirds of the assets of Provident, including all of its interest in Crocker Estate Company, and assumed certain liabilities of Provident in exchange for $54,000,000, consisting of $49,750,000 aggregate principal amount of the Company's 6% Convertible Subordinated Debentures due June 15, 1994 and $4,250,000 in cash (see "Pro Forma Financial Information"). Such purchase price is subject to adjustment based upon reports of certified public accountants to be prepared as soon as is practicable after the closing on October 15, 1969. It is anticipated that the Debentures issued to Provident will be distributed by Provident to its shareholders.

The Purchase Agreement provides for registration under the Securities Act of 1933 of Debentures in addition to those being offered by this Prospectus under certain conditions during the 60 month period beginning with the first issuance of the Debentures, and that any public offering of Debentures must be made through Dillon, Read & Co. Inc. or another underwriter selected by the holders of Debentures and acceptable to the Company.

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In connection with this transaction Glore Forgan, Wm. R. Staats Inc. is to receive a fee of $200,000 from the Company. Mr. Schuyler Merritt, II, a Director of the Company, is a holder of senior securities of and associated with such firm. The stockholders of Provident are to pay Dillon, Read & Co. Inc. a fee for financial advice in connection with this transaction, aggregating $250,000.

"21" Brands, Inc.

The Company and "21" Brands, Inc. ("Brands") have entered into an agreement dated September 5, 1969 pursuant to which Brands will become a wholly-owned subsidiary of the Company and the stockholders of Brands will receive an aggregate of approximately 1,005,000 shares of Common Stock of the Company. Consummation of the transaction is subject to various conditions, including approval by the stockholders of Brands prior to December 31, 1969 and receipt of necessary approvals by regulatory authorities, and may be terminated if the average selling price of the Company's Common Stock on the New York Stock Exchange is less than $27 per share for the ten trading days immediately preceding clearance of Brands' proxy material by the Securities and Exchange Commission and in certain other circumstances (see "Market Prices of Common Stock").

Brands' unaudited net sales and net income for its fiscal year ended June 30, 1969 amounted to approximately $57,500,000 and $1,600,000, respectively. Based upon such results it is not expected that the Company's earnings per share will be materially diluted as a result of this acquisition which will be treated as a pooling of interests for accounting purposes.

Brands is engaged in the business of distributing imported and American whiskies and wines through independent distributors. It is sole agent in the United States for a variety of products including Ballantine's Scotch Whiskey and Tribuno Vermouths. It is also the sole distributor of Ezra Brooks Bourbon which it produces.

Mohawk Liqueur Corporation, a subsidiary of Brands, rectifies, bottles and distributes liqueurs, cordials, gins, rums and vodkas and Brands owns a distillery near Frankfort, Kentucky, at which various "21" Brands bourbons and whiskies and spirit blends are produced. Because of restrictions existing in various state laws applicable to the Company as a distributor of wines and liquors, the Company may discontinue or divest itself of the distilling and rectifying functions performed by Brands, which will not have a significant effect on Brands or its products.

The Company has received routine inquiries from the Federal Trade Commission and the Justice Department with respect to this acquisition. No objection, however, is expected.

MANAGEMENT

The directors and principal officers of the Company are as follows:

Name	Office
Rudolph J. Drews	Chairman of the Board and President
Richard M. Oster	Executive Vice President and Director
John J. Bertrand	Executive Vice President, Director and President of McKesson Liquor Company
Francis L. Capers	Executive Vice President, Director and President of McKesson & Robbins Drug Company
F. Dean Hildebrandt	Executive Vice President, Director and President of McKesson Chemical Company

* * *

SELLING DEBENTUREHOLDERS

The following table sets forth (a) the name and address of each Selling Debentureholder, (b) the aggregate principal amount of Debentures owned by such holder, (c) the aggregate principal amount of Debentures being sold by such holder and (d) the aggregate principal amount of Debentures to be owned by such holder after this offering:

Name	Amount owned	Amount to be sold	Amount to be owned after sale

[To Be Supplied]

The Selling Debentureholders may be considered to be underwriters as that term is defined under the Securities Act of 1933. The Company has agreed to indemnify the Selling Debentureholders and the Underwriters against certain civil liabilities, including liabilities under the Securities Act of 1933.

DESCRIPTION OF THE DEBENTURES

The Debentures being offered hereby have been issued under an indenture (the "Indenture") dated as of October 15, 1969, between the Company and First National City Bank, Trustee, providing for the issuance of up to $49,750,000 aggregate principal amount of Debentures (see "The Debentures" and "Business and Properties—Recent Developments"). A copy of the Indenture is filed as an exhibit to the Registration Statement. References are to the Indenture and wherever particular provisions are referred to, such provisions are incorporated by reference as a part of the statement made, and the statement is qualified in its entirety by such references. Wherever a defined term is indicated, the definition thereof is contained in the Indenture.

General

The Debentures are issuable in fully registered form only, bear interest from October 15, 1969 at 6% per annum and mature on June 15, 1994. Principal is payable at the principal office of the Trustee in New York City. Interest, payable semi-annually on June 15 and December 15, is, subject to certain exceptions, to be paid to the persons in whose names the Debentures are registered at the close of business on the last day of the month preceding each semi-annual interest payment date, and, unless other arrangements are made, is to be paid by checks mailed to such persons at their registered addresses. (Article Two.) The Debentures are not secured by any lien and the payment thereof is subordinated to the payment of other indebtedness as hereinafter described.

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Exhibit L Annexed to Affidavit of Charles de Limur

Form S-1—Amendment No. 2

(See Opposite ☞)

As filed with the Securities and Exchange Commission on October 21, 1969.

Registration No. 2-34698

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D. C. 20549

AMENDMENT NO. 2

To

FORM S-1

REGISTRATION STATEMENT

Under

THE SECURITIES ACT OF 1933

PAGE

A 117

Foremost-McKesson, Inc.

(Exact name of registrant specified in charter)

111 Pine Street
San Francisco, California 94111
(Address of principal executive offices)

WAYNE D. HUDSON, Esq.
Vice President, General Counsel
and Secretary
Foremost-McKesson, Inc.
111 Pine Street
San Francisco, California 94111

WHITE & CASE
14 Wall Street
New York, New York 10005

(Name and address of agents for service)

* * *

$25,000,000

Foremost-McKesson, Inc.

6% Convertible Subordinated Debentures due June 15, 1994

The Debentures offered hereby are outstanding Debentures which have been issued pursuant to an Indenture under which an aggregate of $49,750,000 principal amount of Debentures (the "Debentures") are authorized to be issued, and are being purchased by the Underwriters from a debentureholder named herein under "Selling Debentureholder". The Company will not receive any part of the proceeds from the sale of such Debentures.

The Debentures are convertible at any time prior to maturity, unless previously redeemed, into shares of Common Stock of the Company at a conversion price of $30.66 per share, subject to adjustment under certain conditions. The reported closing price of the Common Stock on the New York Stock Exchange on October 20, 1969 was $28.

The Debentures are entitled to a Sinking Fund beginning June 15, 1980, as more fully set forth herein, sufficient to retire 84% of the Debentures prior to maturity, and are redeemable on 30 days' notice at any time at the optional redemption prices set forth herein. The Debentures are subordinated to other indebtedness for money borrowed as set forth herein under "Description of the Debentures."

The Debentures are issuable in fully registered form only in denominations of $1,000 and multiples thereof.

Application has been made to list the Debentures on the New York Stock Exchange.

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

	Price to Public(1)	Underwriting Commissions	Proceeds to Selling Debenture-holder(1)(2)
Per Debenture	102½%	1¼%	101¼%
Total	$25,625,000	$312,500	$25,312,500

(1) Plus accrued interest from October 15, 1969.

(2) Before deduction of the expenses of this offering payable by the Selling Debentureholder estimated at $10,000. The other expenses of this offering, estimated at $147,000, are payable by the Company.

(3) Reference is made to "Selling Debentureholder" and "Underwriting" herein for information with respect to indemnification against certain civil liabilities, including liabilities under the Securities Act of 1933.

The Debentures offered hereby are being offered by the Underwriters as set forth under "Underwriting" herein. It is expected that such Debentures will be ready for delivery on or about October 28, 1969 at the office of Dillon, Read & Co. Inc., New York, N. Y., against payment therefor in New York funds. The Underwriters include:

Dillon, Read & Co. Inc.

The date of this Prospectus is October 21, 1969.

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* * *

THE COMPANY

Foremost-McKesson, Inc. is a Maryland corporation which resulted from the merger on July 19, 1967 of Foremost Dairies, Inc. (herein called "Foremost"), whose business originated in 1931, and McKesson & Robbins, Incorporated (herein called "McKesson"), a corporation organized in 1928. The principal offices of Foremost-McKesson, Inc. are located at 111 Pine Street, San Francisco, California. Reference herein to the "Company" includes Foremost-McKesson, Inc. and its subsidiaries unless the context otherwise requires.

The Company is primarily engaged in the wholesale distribution of drugs; the processing and distribution of milk, cream, ice cream and related dairy products; the wholesale distribution of wines and liquors; and the wholesale distribution of industrial chemicals.

THE DEBENTURES

The Debentures offered hereby were acquired by Provident Securities Company on October 15, 1969. On that date, Provident Securities Company sold approximately two-thirds of its assets to the Company for an aggregate of a maximum of $49,750,000 principal amount of 6% Convertible Subordinated Debentures due June 15, 1994, $4,250,000 in cash and the assumption of certain liabilities of Provident Securities Company. The final purchase price for such assets is subject to adjustment after the preparation of a closing balance sheet (see "Business and Properties—Recent Developments" herein).

* * *

634

PRO FORMA FINANCIAL INFORMATION

The pro forma condensed balance sheet shown below gives effect to the acquisition as of October 15, 1969 by the Company of certain assets of Provident Securities Company in exchange for $49,750,000 of the Company's 6% Convertible Subordinated Debentures due June 15, 1994 and $4,250,000 in cash under a Purchase Agreement dated September 25, 1969 (see "Business and Properties—Recent Developments" herein). Amounts shown in the Company's audited consolidated balance sheet as of March 31, 1969 have been combined with assets acquired and liabilities incurred on the bases described in the notes.

	Foremost-McKesson	Pro Forma Adjustments	Total
		(Thousands of Dollars)	
ASSETS			
Current assets	$404,155	$28,378(1)	$432,533
Investments and advances	34,106	25,443(2)	59,549
Property, plant and equipment—net	82,162	—	82,162
Other assets	2,521	179	2,700
Total	$522,944	$54,000	$576,944
LIABILITIES			
Current liabilities	$160,239	$ 4,250(3)	$164,489
Long-term debt	165,999	49,750(4)	215,749
Deferred Federal income tax and other deferred credits	5,714	—	5,714
Stockholder equity	190,992	—	190,992
Total	$522,944	$54,000	$576,944

Notes:

Assets acquired by the Company (October 15, 1969):

(1) Consists of:

Short-term investments:	
Capital stocks—at market value	$23,850,000
Bonds and notes—at Provident's cost which approximates market	3,900,000
Cash (net of estimated Company expenses attributable to the transaction) and other current assets	628,000
Total	$28,378,000

(2) Consists of:

Investment in capital stock of Crocker Estate Company representing 38.9% interest in securities at market value, real estate equities at appraised value and other assets	$15,070,000
Income-producing properties and undeveloped land at appraised values less related debt of $8,254,000 (these assets and debt to be reflected in a newly-formed wholly-owned subsidiary)	8,239,000
Other investments and advances	2,134,000
Total	$25,443,000

Liabilities incurred by the Company:

(3) Represents short-term bank borrowing to satisfy the cash portion of the purchase price.

(4) Represents 6% convertible subordinated debentures due June 15, 1994.

The pro forma condensed earnings shown below are based on the Company's audited statement of consolidated income for the year ended March 31, 1969 and the historical financial information of Provident on the bases described in the notes. As set forth in the next paragraph hereof, the Company does not believe that the results shown represent what the results would have been if the Company had held the aforementioned assets and owed the aforementioned liabilities of Provident during the period.

	Foremost-McKesson	Pro Forma Adjustments	Total
		(Thousands of Dollars)	
Income before interest and Federal income tax	$59,008	$ 984 (1)	$59,992
Interest	10,428	3,346 (2)	13,774
Income before Federal income tax	48,580	(2,362)	46,218
Federal income tax	22,975	(1,684) (3)	21,291
Net income	$25,605	$ (678)	$24,927
Per share of common stock:			
Primary earnings	$1.92	$(.06)*	$1.86*
Fully diluted earnings	1.69	(.13) (4)*	1.56*

NOTES:

(1) Represents:

Operating income from properties and other assets acquired by the Company from Provident as derived from Provident's audited statement of income for the year ended December 31, 1968	$806,000
Reduction in California franchise tax applicable to excess of interest on $54,000,000 of liabilities incurred by the Company over income indicated above	178,000
Total	$984,000

(2) Represents interest on $49,750,000 of 6% convertible subordinated debentures ($2,985,000) and $4,250,000 of bank borrowings at the prime rate of 8½% ($361,000).

(3) Represents Federal income tax at the Company's current rates applicable to the above adjustments.

(4) Represents additional dilution assuming conversion of $49,750,000 of 6% convertible subordinated debentures into 1,622,637 shares of common stock.

* Based on the assumption that the Provident assets have been held for a full year and also on the assumption that they will be retained in their present form which is contrary to the Company's intention.

As soon as practicable after its acquisition of assets from Provident the Company intends to sell the short-term investments and a substantial part of Provident's real estate (see Notes 1 and 2 to the pro forma condensed balance sheet). The proceeds thereof may be used by the Company in connection with acquisitions or for general corporate purposes. While discussions have been held with certain companies and persons (including persons holding interests in Crocker Estate Company), no commitment, option or offer to acquire any material company or business is outstanding except as set forth under "Business and Properties—Recent Developments" herein. Until the proceeds are required for these purposes, they may be invested by the Company in short-term obligations.

DIVIDENDS

The annual dividend rate on the Company's Common Stock has been 75¢ per share since May 1968 when it was increased from 50¢ per share. Such rate is subject to change at any time by the Board of Directors. The declaration and payment of dividends by the Company in the future will necessarily be subject to its earnings and financial condition and other factors as appraised by the Board of Directors. For information with respect to restrictions upon the payment of dividends reference is made to the heading, "Description of the Debentures" and "Description of Common Stock" herein.

638

Competition

In its domestic dairy business, the Company has active competition from national, regional and local dairy companies and from wholesale customers who may integrate their own dairy supply. In its distribution of drugs, chemicals and wines and liquors, the Company has active competition, both from regional and local wholesalers and from direct distribution by manufacturers.

Employees

The Company and its subsidiaries have approximately 17,700 employees, approximately 8,700 of whom are covered by agreements with labor unions. The Company regards its relations with its employees as satisfactory.

Properties

Because of the nature of the Company's lines of business, numerous plants and warehousing facilities are operated in widely scattered locations and no facility is of such importance to the business as a whole that it can be regarded as a principal facility. The Company considers that its operating properties are generally well maintained, in satisfactory condition and effectively utilized.

Milk and ice cream processing plants are, in general, located centrally in the distribution areas which they serve. Cheese, butter and milk by-products plants are located in or near milk producing areas. Whey processing plants are located in cheese producing areas, principally in Wisconsin.

The Company's McKesson operating companies generally operate as distributors from separate warehouses which are usually owned or leased on a long-term basis. These include approximately 81 owned and 162 leased warehouses. In addition, 53 public warehouses are used as local chemical stock points.

Recent Developments

Provident Securities Company

On September 25, 1969 the Company entered into a Purchase Agreement with Provident Securities Company ("Provident"), a personal holding company with assets consisting mainly of marketable common stock, real estate in or near San Francisco and a minority interest in another corporation (Crocker Estate Company) with assets consisting mainly of real estate in or near San Francisco and marketable common stock. Under the terms of such agreement the Company has acquired approximately two-thirds of the assets of Provident, including all of its interest in Crocker Estate Company, and assumed certain liabilities of Provident in exchange for $54,000,000, consisting of $49,750,000 aggregate principal amount of the Company's 6% Convertible Subordinated Debentures due June 15, 1994 and $4,250,000 in cash (see "Pro Forma Financial Information"). Such purchase price is subject to adjustment based upon reports of certified public accountants to be prepared as soon as is practicable after the closing on October 15, 1969. It is anticipated that the proceeds of the sale of the Debentures offered hereby and the remaining Debentures issued or to be issued to Provident will be distributed by Provident to its shareholders in a liquidating distribution.

The Purchase Agreement provides for registration under the Securities Act of 1933 of Debentures in addition to those being offered by this Prospectus under certain conditions during the 30 month period beginning October 15, 1969, and that any public offering of Debentures must be made through Dillon, Read & Co. Inc. or another underwriter selected by the holders of Debentures and acceptable to the Company.

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643

In connection with this acquisition Glore Forgan, Wm. R. Staats Inc. is to receive a fee of $200,000 from the Company. Mr. Schuyler Merritt, II, a Director of the Company, is a holder of senior securities of and associated with such firm. The stockholders of Provident are to pay Dillon, Read & Co. Inc. a fee for financial advice in connection with this acquisition, aggregating $250,000.

"21" Brands, Inc.

The Company and "21" Brands, Inc. ("Brands") have entered into an agreement dated September 5, 1969 pursuant to which Brands will become a wholly-owned subsidiary of the Company and the stockholders of Brands will receive an aggregate of approximately 1,005,000 shares of Common Stock of the Company. Consummation of the transaction is subject to various conditions, including approval by the stockholders of Brands prior to December 31, 1969 and receipt of necessary approvals by regulatory authorities, and may be terminated if the average selling price of the Company's Common Stock on the New York Stock Exchange is less than $27 per share for the ten trading days immediately preceding clearance of Brands' proxy material by the Securities and Exchange Commission and in certain other circumstances (see "Market Prices of Common Stock").

Brands' audited net sales and net income for its fiscal year ended June 30, 1969 amounted to $57,636,000 and $1,612,000, respectively. Based upon such results it is not expected that the Company's earnings per share will be materially diluted as a result of this acquisition which will be treated as a pooling of interests for accounting purposes.

Brands is engaged in the business of distributing imported and American whiskies and wines through independent distributors. It is sole agent in the United States for a variety of products including Ballantine's Scotch Whiskey and Tribuno Vermouths. It is also the sole distributor of Ezra Brooks Bourbon which it produces.

Mohawk Liqueur Corporation, a subsidiary of Brands, rectifies, bottles and distributes liqueurs, cordials, gins, rums and vodkas and Brands owns a distillery near Frankfort, Kentucky, at which various "21" Brands bourbons and whiskies and spirit blends are produced. Because of restrictions existing in various state laws applicable to the Company as a distributor of wines and liquors, the Company may discontinue or divest itself of the distilling and rectifying functions performed by Brands, which will not have a significant effect on Brands or its products.

The Company has received routine inquiries from the Federal Trade Commission and the Justice Department with respect to this acquisition. No objection, however, is expected.

MANAGEMENT

The directors and principal officers of the Company are as follows:

Name	Office
Rudolph J. Drews	Chairman of the Board and President
Richard M. Oster	Executive Vice President and Director
John J. Bertrand	Executive Vice President and Director, President of McKesson Liquor Company
Francis L. Capers	Executive Vice President and Director, President of McKesson & Robbins Drug Company
F. Dean Hildebrandt	Executive Vice President and Director, President of McKesson Chemical Company

***

HOLDERS OF EQUITY SECURITIES

At September 1, 1969 no person owned of record, or was known by the Company to own beneficially, more than 10% of the Prior Preferred Stock, Cumulative Preferred Stock, Series A (Convertible), or Common Stock of the Company except that Sterling Industries, Inc., 1301 Avenue of the Americas, New York, New York owned of record and beneficially 13,840 shares, or approximately 16% of the outstanding Prior Preferred Stock.

At September 1, 1969, the directors and principal officers of the Company as a group owned beneficially 139,362 shares or about 1% of the Common Stock, 26,975 shares or about 1% of the Cumulative Preferred Stock, Series A (Convertible), and 179 shares or less than 1% of the Prior Preferred Stock, of the Company.

SELLING DEBENTUREHOLDER

As described under "The Debentures" and "Business and Properties—Recent Developments" the Debentures offered hereby were acquired on October 15, 1969 and are owned by Provident Securities Company. An aggregate of $47,250,000 principal amount of Debentures have been issued to Provident, and up to $2,500,000 additional principal amount of Debentures may be delivered to Provident depending on final adjustments after the preparation of reports by accountants. All Debentures received by Provident, other than those offered hereby, will be distributed by Provident to its shareholders in a liquidating distribution.

Provident may be considered to be an underwriter as that term is defined under the Securities Act of 1933. The Company has agreed to indemnify Provident and the Underwriters against certain civil liabilities, including liabilities under the Securities Act of 1933.

DESCRIPTION OF THE DEBENTURES

The Debentures being offered hereby have been issued under an indenture (the "Indenture") dated as of October 15, 1969, between the Company and First National City Bank, Trustee, providing for the issuance of up to $49,750,000 aggregate principal amount of Debentures (see "The Debentures" and "Business and Properties—Recent Developments"). A copy of the Indenture is filed as an exhibit to the Registration Statement. References are to the Indenture and wherever particular provisions are referred to, such provisions are incorporated by reference as a part of the statement made, and the statement is qualified in its entirety by such references. Wherever a defined term is indicated, the definition thereof is contained in the Indenture.

General

The Debentures are issuable in fully registered form only, bear interest from October 15, 1969 at 6% per annum and mature on June 15, 1971. Principal is payable at the principal office of the Trustee in New York City. Interest, payable semi-annually on June 15 and December 15, is, subject to certain exceptions, to be paid to the persons in whose names the Debentures are registered at the close of business on the last day of the month preceding each semi-annual interest payment date, and, unless other arrangements are made, is to be paid by checks mailed to such persons at their registered addresses. (Article Two.) The Debentures are not secured by any lien and the payment thereof is subordinated to the payment of other indebtedness as hereinafter described.

* * *

Exhibit M Annexed to Affidavit of Charles de Limur

Minutes

DIRECTORS' MEETING

October 13, 1969

Upon notice duly given, a meeting of the Board of Directors of Provident Securities Company was held at 4:00 P.M. October 13, 1969 at One Montgomery Street, San Francisco, California.

The following Directors constituting a quorum were present:

Charles de Limur
E. Morris Cox
Norton Adams
Charles Crocker
Donald C. Lahey
Emmet G. Solomon

The following Directors were absent:

Robert Homans
Neil Carothers, III
William H. Crocker

The following were present by invitation:

Max Thelen, Jr.
John P. Austin
Arthur Norman Field
Samuel Frankenheim
Roger Barzun

Charles de Limur acted as Chairman of the meeting, and Donald C. Lahey acted as Secretary of the meeting.

Exhibit M Annexed to Affidavit of Charles de Limur

The minutes of the last meeting of the Board of Directors held on September 26, 1969 were read and unanimously approved as read.

A discussion of the possibility of asserting a claim against Foremost-McKesson, Inc. arising out of the publication of an article in Barrons on September 29, 1969 and certain other publicity followed. Reference was made to a memorandum prepared by Shearman & Sterling dated October 8, 1969 which had been mailed to all Directors. It was noted that the failure to assert any claim prior to the closing might seriously prejudice the claim. Thereafter upon motion duly made and seconded and unanimously carried it was

RESOLVED, That the Corporation take no action to assert any claim against Foremost-McKesson, Inc. at this time arising out of recent publications concerning that corporation.

It was noted that the conversion price of the Debentures had been set at $30.6599868 in accordance with the Purchase Agreement.

A discussion of the proposed liquidating distributions followed. After a full discussion on motion duly made, seconded and unanimously carried, the following resolutions were adopted:

RESOLVED, That with respect to the Preferred Stock of the Corporation the liquidation preference of par value plus accrued and unpaid dividends specified in the Certificate of Incorporation of the Corporation be paid on October 15, 1969 to Preferred shareholders of record of the Corporation on October 13, 1969 in cash as a full and final payment.

FURTHER RESOLVED, That to implement the foregoing resolution the appropriate officers of the Cor-

poration are authorized and directed to pay $60.50 with respect to each of the 111,720 outstanding Preferred shares of the Corporation on October 15, 1969, the total so paid to be $6,759,060.

Thereafter there was a discussion of distributions subsequent to payment of the Preferred stock. Upon motion duly made, seconded and unanimously carried, the following resolutions were adopted:

RESOLVED, That after full and final payment with respect to the Preferred stock has been made in accordance with the Certificate of Incorporation of the Corporation, the proper officers of the Corporation are authorized and directed to distribute pro rata to shareholders of record upon dates established by them as expeditiously as possible the following assets of the Corporation at the times indicated:

(a) Crocker National Corporation Stock on or about October 20.

(b) Foremost-McKesson, Inc. Convertible Subordinated Debentures, as received.

(c) Cash in excess of that required for reasonable reserves and expenses, as received.

RESOLVED, That in connection with the distribution of Crocker National Corporation Stock the proper officers of the Corporation shall cause to be affixed to each certificate distributed a legend, in the following form:

"The shares evidenced by this certificate may not be transferred without presentation of an opinion of counsel for Provident Securities Company as the issuer that the proposed sale or other disposition may be effected without

registration under the Securities Act of 1933 as amended or any similar statute then in force."

FURTHER RESOLVED, That to facilitate the pro rata distribution of Crocker National Corporation stock and Foremost-McKesson, Inc. Debentures (to the extent authorized by this Board) the Corporation shall retain any portions of such shares and portions of Debentures otherwise distributable to shareholders pro rata, and shall hold or cause to be held all such portions of shares and of Debentures as a separate fund for the sole benefit of the shareholders concerned pending sale or other appropriate disposition.

The Chairman noted that the shareholders had consented to or were in the process of consenting to an Amendment to the Foremost-McKesson agreement which was designed to permit Provident rather than its shareholders to sell the Debentures. After discussion, upon motion duly made and seconded, it was

RESOLVED, That the President or any Vice President of this Company is hereby authorized to file with the Securities and Exchange Commission a request for acceleration pursuant to Rule 461 and a statement pursuant to item 43 of Release No. 4936 under the Securities Act of 1933, as amended.

The Chairman then noted that it was in order to ratify the past payment of certain dividends with respect to Preferred stock. Upon motion duly made and seconded, it was

RESOLVED, That the Board hereby ratifies and confirms the payment of all dividends with respect

Exhibit M Annexed to Affidavit of Charles de Limur

to the Preferred stock of the Corporation to the extent such payments were not heretofore specifically authorized by the Board.

A discussion of sales of securities not included in the sale to Foremost followed. It was noted that sales of Gulf Resources Common and Preferred were slow and at a low price. After discussion, upon motion duly made and seconded, it was

RESOLVED, That the President or any Vice President be and each of them hereby is authorized to suspend sales of Gulf Resources Common and Preferred stock, heretofore being sold pursuant to a resolution of the Board at its meeting on September 26, 1969.

The meeting of the Board scheduled for October 24 was cancelled, and a meeting of the Board was scheduled instead for October 20 at 12 noon at One Montgomery Street.

There being no further business, on motion duly made, seconded and unanimously carried, the meeting was adjourned.

Donald C. Lahey
Secretary

Exhibit N Annexed to Affidavit of Charles de Limur

Telegram

(See Opposite ☞)

O

CROCKER-CITIZENS NATIONAL BANK

OUTGOING TELEGRAPH MESSAGE

PRIVATE WIRE	PHONE	WESTERN UNION					CABLE	
CROCKER-CITIZENS BANK		TELEGRAM	DAYLTR.	NIGHTLTR.	PREPAID	COLLECT	FULL RATE	LETTER
				1969 OCT -9 PM 3:42				

TELEGRAPH DEPARTMENT USE ONLY	NUMBER	TIME FILED	CHECK	VIA

DATE OCTOBER 9 1969

Please send the following telegram to the list of people attached:

IMPORTANT YOU ATTEND SELLING DEBENTURE HOLDERS MEETING

EXECUTIVE COMMITTEE ROOM SECOND FLOOR CROCKER-CITIZENS

NATIONAL BANK 1 MONTGOMERY STREET SAN FRANCISCO MONDAY

OCTOBER THIRTEENTH AT 2:00 P M STOP PLEASE ADVISE BY RETURN

WIRE IF YOU WILL NOT ATTEND

Charles de Limur,
President

Originating Department Provident Securities Company

In reply to 3023

Authorized by

Payment of Message Cost: ☐ By Bank ☐ Debit Customer Account ☒ Bill Customer

Customer Name or Account Title Provident Securities Company

1 Montgomery Street, S.F. 94104

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EXHIBIT

N

Exhibit N Annexed to Affidavit of Charles de Limur

Charles Howland Russell, Trustee u/w Ethel
Mary de Limur,
b/o Alexander Charles de Limur
b/o Andree Christine de Limur
b/o Charles E. Crocker de Limur
b/o Philip Alexander de Limur
c/o Batten, Barton, Durstine & Osborne, Inc.
650 California Street, San Francisco, California 94108

Mary Ethel Carothers, Trustee u/w Ethel Mary de Limur,
b/o Mary Ethel Carothers
b/o Neil Carothers, IV
b/o Andre Sperry Carothers
3244 Nebraska Avenue, N.W.
Washington, D.C. 20016

Robert Homans, Trustee u/w Ethel Mary de Limur,
b/o Mary Ethel Carothers
b/o Neil Carothers, IV
b/o Andre Sperry Carothers
Morrison, Foerster, Holloway, Clinton & Clark
Crocker Plaza, San Francisco, California 94104

Mary Carothers
3244 Nebraska Avenue, N.W.
Washington, D.C. 20016

Neil Carothers, IV
c/o Mary Carothers, natural guardian
3244 Nebraska Avenue, N.W.
Washington, D.C. 20016

Andre Sperry Carothers
c/o Mary Carothers, natural guardian
3244 Nebraska Avenue, N.W.
Washington, D.C. 20016

Exhibit N Annexed to Affidavit of Charles de Limur

Marguerite Brokaw Adams, Trustee of the Trust
Created by the L/W & T of Charles Crocker,
Deceased, Designated Fund "B"
f/b/o Charles Crocker, III
f/b/o Daphne Crocker White
3 East 77th Street, New York, N.Y. 10021 *and*
Eagle's Nest, Ocean Avenue, Newport, R.I. 02840

Sheldon G. Cooper, Trustee of the Trust Created
by the L/W & T of Charles Crocker, Deceased,
Designated Fund "B"
f/b/o Charles Crocker, III
f/b/o Daphne Crocker White
Cooper, White & Cooper
44 Montgomery Street, San Francisco, Calif. 94104

Suzanne Crocker White
1840 Brookvale Road, Hillsborough, California 94010

Anthony Russell White
1840 Brookvale Road, Hillsborough, California 94010

Neil Carothers, III
3244 Nebraska Avenue, N.W., Washington, D.C. 20016

William H. Crocker
3333 P Street, N.W., Washington, D.C. 20007

David Crocker Redington
c/o Diana C. Redington, natural guardian
200 East 62nd Street, New York, N.Y. 10021

Sylvia Hobart Redington
c/o Diana C. Redington, natural guardian
200 East 62nd Street, New York, N.Y. 10021

Ruth Mary Redington
c/o Diana C. Redington, natural guardian
200 East 62nd Street, New York, N.Y. 10021

William H. Crocker, Custodian for
Ruth Mary Redington under New York
Uniform Gift to Minors Act
3333 P Street, N.W., Washington, D.C. 20007

Exhibit O Annexed to Affidavit of Charles de Limur

Agenda

October 13, 1969

Selling Debentureholders Meeting

1. Consideration of sale by Provident
   (a) Advantages—Minors
   (b) Disadvantages—Tax Problems
      (i) Tax bill
      (ii) Utilization of Losses
   (c) Shareholder Approval Required
2. (a) If sale is to be by Debentureholders execution of documents
      (i) Agreement and Authorization
      (ii) Delivery Instruction
   (b) If sale is to be by Provident, sign consent
3. Section 16(b) Problem

Exhibit P Annexed to Affidavit of Charles de Limur

Letter

October 15, 1969

Securities and Exchange Commission
Washington, D. C. 20549

Re: Foremost-McKesson, Inc.
Registration Statement No. 2—34888

Gentlemen:

The undersigned is the selling stockholder to be named in the prospectus included in the above Registration Statement. The undersigned has recently gone into liquidation and proposes to wind up and dissolve. The undersigned desires to reduce to cash a portion of its holdings of Foremost-McKesson, Inc. 6% Convertible Subordinated Debentures in order that a cash liquidating distribution may be made to its shareholders.

The undersigned is familiar with the above-captioned Registration Statement and knows of no material adverse information with respect to current and prospective operations of Foremost-McKesson, Inc. not disclosed in the prospectus.

Very truly yours,

PROVIDENT SECURITIES COMPANY

By / Charles de Limur

Charles de Limur, President

Exhibit Q Annexed to Affidavit of Charles de Limur

Consent

The undersigned hereby consents to amendment of the Purchase Agreement between Foremost-McKesson, Inc. and Provident Securities Company, dated September 25, 1969, to the extent appropriate to enable Provident Securities Company to sell $25,000,000 principal amount of Debentures to Dillon, Read & Co. Inc., et al. The undersigned understands that the contemplated sale of those Debentures by stockholders will not take place.

It is further understood that the foregoing amendment will not be effected unless holders of a majority of the common stock and holders of two-thirds of the preferred stock consent thereto.

Exhibit R Annexed to Affidavit of Charles de Limur

Consent

Reference is made to Section 5(k)(i) of the Purchase Agreement, dated September 25, 1969, between the undersigned and Provident Securities Company. In connection with said provision, the undersigned agrees to enter into an Underwriting Agreement in substantially the form annexed hereto.

FOREMOST-MCKESSON, INC.

By Wayne D. Hudson

Dated: October 15, 1969.

(Underwriting Agreement printed herein at page A135.)

Exhibit S Annexed to Affidavit of Charles de Limur

Letter

PROVIDENT SECURITIES COMPANY
1 Montgomery Street, Room 907
San Francisco, Calif. 94104

October 16, 1969

First National City Bank
111 Wall Street
New York, N. Y.

Gentlemen:

The undersigned hereby directs you as Trustee under that certain Indenture dated as of October 15, 1969 between you and Foremost-McKesson, Inc. and under which $40,000,000 principal amount of 6% Convertible Subordinated Debentures of Foremost-McKesson, Inc. were issued on October 15, 1969 to exchange the certificates evidencing said $40,000,000 Debentures for two certificates, one evidencing $25,000,000 principal amount and the other evidencing $15,000,000 principal amount, both such certificates to continue to be held by you subject to our further order.

Very truly yours,

Charles de Limur
President

Exhibit T Annexed to Affidavit of Charles de Limur

Letter

PROVIDENT SECURITIES COMPANY
1 Montgomery Street, Room 907
San Francisco, Calif. 94104

October 21, 1969

First National City Bank
111 Wall Street
New York, New York

Gentlemen:

You now hold two certificates in the principal amounts of $15,000,000 and $7,250,000, respectively, which aggregate $22,250,000, of Foremost-McKesson, Inc. 6% Convertible Subordinated Debentures issued under that certain Indenture dated as of October 15, 1969, between you, as Trustee, and Foremost-McKesson, Inc., pending further instructions for distribution.

You are hereby directed to exchange said Debentures against the issuance of a like aggregate principal amount of Debentures in the names of the persons listed in the attached Schedule and in the principal amounts indicated after the name of each such person, for delivery by mail to such persons on October 24, 1969.

Very truly yours,

PROVIDENT SECURITIES COMPANY

By Charles de Limur

Charles de Limur
President

Exhibit U Annexed to Affidavit of Charles de Limur

Letter

PROVIDENT SECURITIES COMPANY
1 Montgomery Street, Room 907
San Francisco, Calif. 94104

October 24, 1969

To the Common Shareholders of
Provident Securities Company

Common Stock Liquidating Distribution
in Foremost Debentures

Enclosed herewith is one certificate for 6% Subordinated Convertible Debentures of Foremost-McKesson, Inc. This certificate constitutes one of a series of distributions being made to you with respect to your Common shares of the Company pursuant to the Plan of Complete Liquidation of the Company adopted at a Shareholders Meeting on September 26, 1969.

The face amount of Debentures to which you are entitled, as indicated below, includes a dollar amount which is not a multiple of $1000 and which is not distributed herewith. Foremost-McKesson will not issue Debentures except in multiples of $1000. Provident will hold or cause to be held as a separate fund all portions of Debentures for the sole benefit of the shareholders concerned pending sale or other appropriate disposition.

The enclosed Debenture bears the following legend:

> "The transfer of this security is subject to the conditions specified in a Purchase Agreement dated September 25, 1969, between Foremost-McKesson, Inc. and Provident Securities Company and no transfer of this security shall be valid or effective until such conditions have been fulfilled."

Exhibit U Annexed to Affidavit of Charles de Limur

Such legend is required by the Purchase Agreement between Provident and Foremost. The conditions in the Agreement preclude transfer unless there is registration under the Securities Act or presentation of an opinion of Foremost's counsel that transfer may be made without such registration.

If you have any questions in connection with this distribution please call me.

Sincerely yours,

Charles de Limur
Charles de Limur
President

Envelope addressed to:

Entitled to $
face amount of Debentures out
of $22,250,000 Debentures
distributed at this time

Registered holders of shares of
Common stock of Provident Securities
Company out of 87,000 shares outstanding

Exhibit V Annexed to Affidavit of Charles de Limur

Underwriting Agreement

(See Opposite ☞)

15

UNDERWRITING AGREEMENT

October 21, 1969

Dillon, Read & Co. Inc.,
46 William Street,
New York, N. Y. 10005

Dear Sirs:

Provident Securities Company (the Selling Debentureholder) proposes to sell to the underwriters named in Schedule A annexed hereto (the Underwriters) an aggregate of $25,000,000 principal amount of the outstanding 6% Convertible Subordinated Debentures due June 15, 1994 (the Debentures) of Foremost-McKesson, Inc. (the Company).

The Debentures have been issued pursuant to an Indenture (the Indenture), dated as of October 15, 1969, between the Company and First National City Bank, Trustee. Copies of the Indenture have been delivered to each of the Underwriters.

The Company has filed, in accordance with the provisions of the Securities Act of 1933 and the rules and regulations thereunder (herein collectively called the Act), with the Securities and Exchange Commission (the Commission) a registration statement, on Form S-1, including a prospectus, relating to the Debentures. The Company has furnished to you, for use by the Underwriters and dealers, copies of one or more preliminary prospectuses (each thereof being herein called the Preliminary Prospectus). Except where the context otherwise requires, the registration statement, as amended when it becomes effective, including all documents filed as a part thereof or incorporated therein, is herein called the Registration Statement and the prospectus, as then amended, is herein called the Prospectus.

1. Sale and Purchase: Upon the basis of the warranties and representations and the other terms and conditions herein, the Selling Debentureholder agrees to sell to the respective Underwriters, and the Underwriters, severally and not jointly, agree to purchase from the Selling Debentureholder, the respective principal amounts of Debentures set opposite their names in Schedule A at ...% of the principal amount thereof, plus accrued interest from October 15, 1969 to the date of delivery.

2. Payment and Delivery: Payment for the Debentures shall be made to the Selling Debentureholder in New York Clearing House funds, by certified check or checks to or upon the order of the Selling Debentureholder, at the office of Dillon, Read & Co. Inc., against delivery of the Debentures to you, for the respective accounts of the Underwriters, registered in such names and in such denominations as you shall specify. Such payment and delivery shall be made at 9:45 A.M., on October 28, 1969

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unless another time (not later than 9:45 A. M. on November 3, 1969) shall be agreed to by you and the Selling Debentureholder. The time that such payment and delivery are actually made is herein sometimes called the "time of purchase". For the purpose of expediting the checking and packaging of the Debentures by you, the Selling Debentureholder agrees to make them available to you in definitive form at least one full business day prior to the time of purchase.

3. Certain Covenants of the Company: The Company agrees

(a) to use its best efforts to qualify the Debentures and common stock of the Company issuable upon conversion thereof, if required, for offering and sale under securities or blue sky laws of such states as you may designate, provided that the Company shall not be required to qualify as a foreign corporation or to consent to service of process in any such state;

(b) to make available to you, on the day the Registration Statement becomes effective, and thereafter from time to time to furnish to the Underwriters, as many copies of the Prospectus (or of the Prospectus as amended or supplemented if the Company shall have made any amendments or supplements thereto after the effective date) as the Underwriters may reasonably request for the purposes contemplated by the Act;

(c) to advise you promptly of any request by the Commission for amendments to the Registration Statement or Prospectus or for additional information with respect thereto and, if the Commission should enter a stop order suspending the effectiveness of the Registration Statement, to make every reasonable effort to obtain the lifting or removal of such order as soon as possible;

(d) so long as any of the Debentures shall remain outstanding, but for not more than a period of ten years, to furnish to you and, upon request, to each of the other Underwriters copies of any reports or other communications which it shall send generally to its stockholders;

(e) to advise the Underwriters promptly of the happening of any event known to the Company within the time during which a prospectus relating to the Debentures is required to be delivered under the Act which, in the judgment of the Company, would require the making of any change in the prospectus then being used so that the prospectus as thereafter delivered to purchasers would not include an untrue statement of a material fact or omit to state a material fact necessary to make the statements, in the light of the circumstances under which they are made, not misleading, and to prepare and furnish to the Underwriters such amendments or supplements to such prospectus as may be necessary to reflect any such change;

(f) to make generally available to its security holders an earnings statement (which need not be audited) covering a period of twelve months beginning after the effective date of the Registration Statement but not later than January 1, 1970, as soon as is reasonably practicable after the termination of such twelve months' period;

(g) to make application for the listing of the Debentures on the New York Stock Exchange and the registration thereof under the Securities Exchange Act of 1934; and

* Times mentioned herein are New York City Time.

(h) to pay all expenses, other than any fees or expenses of the Underwriters and their counsel, in connection with the preparation, issue, execution, authentication and delivery of the Debentures, the preparation and printing of this agreement and the Indenture, the preparation and filing of the Registration Statement (including all amendments), the Prospectus (including any amendments or supplements), and the Preliminary Prospectuses and the furnishing of copies of each thereof to you for delivery to the Underwriters, the listing of the Debentures on the New York Stock Exchange and the registration thereof under the Securities Exchange Act of 1934; provided that the Selling Debentureholder hereby agrees to pay all of the filing fees and expenses in connection with qualifying the Debentures for sale under securities or blue sky laws.

4. Reimbursement of Underwriters' Expenses: If the Debentures are not delivered for any reason other than the termination of this agreement pursuant to Section 7 hereof or the default by one or more of the Underwriters in its or their obligations hereunder, the Selling Debentureholder shall reimburse the Underwriters for all of their reasonable out-of-pocket expenses, including the fees and expenses of their counsel.

5. Conditions of Underwriters' Obligations: The several obligations of the Underwriters hereunder are subject to the following conditions:

(a) That, at the time of purchase, the Company shall furnish to you the opinions (addressed to the Underwriters), in form and substance satisfactory to Cahill, Gordon, Sonnett, Reindel & Ohl (Counsel for the Underwriters), with reproduced copies thereof for each of the other Underwriters, of White & Case, Counsel for the Company, and Wayne D. Hudson, General Counsel of the Company, as indicated below.

(i) The opinion of White & Case is to state in substance that:

(A) the Company has been duly incorporated, is validly existing as a corporation in good standing under the laws of Maryland and is legally authorized under such laws to carry on the business conducted by it, and is duly qualified as a foreign corporation to carry on the business conducted by it in all other jurisdictions in which it operates;

(B) each of the Company's subsidiaries are corporations duly incorporated and validly existing as corporations in good standing under the laws of their respective jurisdictions of incorporation and each is legally authorized under such law to carry on the business conducted by it and each is duly qualified as a foreign corporation to carry on the business conducted by it in all other jurisdictions in which it operates;

(C) the Indenture is in due legal form, has been duly authorized, executed and delivered, is a valid instrument legally binding upon the Company and complies in all material respects with, and has been duly qualified under, the Trust Indenture Act of 1939, and the rules and regulations thereunder (herein collectively called the Trust Indenture Act); the Debentures and the other Debentures issued under the Indenture are in due legal form, have been duly authorized and issued, constitute the legal, valid and binding obligations of the Company and are entitled to the benefits provided by the Indenture;

(D) no approval of any public regulatory body is required for the valid sale of the Debentures under this agreement, other than approvals which may be required by state security regulatory laws;

(E) the outstanding shares of common stock of the Company have been validly authorized and issued and are fully paid and non-assessable, and the shares of common stock of the Company initially issuable upon conversion of the Debentures have been validly authorized and reserved for such conversion and when issued upon such conversion will be validly issued and fully paid and non-assessable;

(F) the Debentures, Indenture and common stock of the Company issuable upon conversion of the Debentures conform as to legal matters with the statements concerning them in the Prospectus;

(G) the Registration Statement and the Prospectus (except as to the financial statements and schedules contained therein, upon which said counsel need not pass) comply as to form in all material respects with the requirements of the Act;

(H) such counsel do not know of any documents which in their opinion are required to be filed with the Registration Statement which are not so filed or incorporated by reference;

(I) other than as disclosed and correctly summarized in the Prospectus, there are no material pending legal proceedings, known to such counsel, to which the Company or any subsidiary is a party or of which property of the Company or any subsidiary is the subject and to the knowledge of such counsel no such proceeding is contemplated by governmental authorities;

(J) the execution, delivery and performance of this agreement and the consummation of the transactions contemplated herein, and the issuance of common stock of the Company upon conversion of the Debentures do not and will not conflict with any provision of the Certificate of Incorporation or the By-Laws of the Company or conflict with or result in a breach of any provision of any agreement or other instrument, known to such counsel, to which the Company or any subsidiary is a party or by which the Company or any subsidiary or their respective properties are bound;

(K) such counsel have prepared or reviewed the statements made in the Prospectus under the captions "Business and Properties—McKesson & Robbins Drug Company, Foremost Foods Company, McKesson Liquor Company, Federal Trade Commission and Recent Developments", "Stock Options", "Description of the Debentures" and "Description of Common Stock", and to the extent they involve expressions of opinion as to matters of law they are correct;

(L) such counsel has participated in the preparation of the Registration Statement and Prospectus and no facts have come to the attention of such counsel to lead such counsel to believe that, at the time the Registration Statement became effective, either the Registration Statement or the Prospectus (except the financial statements and schedules contained therein, upon which counsel need not pass) contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and

(M) this agreement has been duly authorized, executed and delivered by the Company and is a valid and binding agreement of the Company, except that such

counsel need express no opinion as to the enforceability of the indemnification provisions.

In rendering their said opinion, White & Case may rely as to matters of due qualification in foreign jurisdictions referred to in paragraph (a)(i)(A) above, and matters referred to in paragraph (a)(i)(B) above, upon the opinion of Mr. Hudson.

(ii) The opinion of Mr. Hudson is to cover the matters referred to in paragraph (a)(i) above and is to further state in substance that (A) although titles of the Company and its subsidiaries to their respective various real properties were not examined specifically for the purpose of the statements in respect to titles made in the Prospectus, he is familiar with the scope and extent of examinations of titles made in the past and with other records of the Company and its subsidiaries and, based thereon, is of the opinion that the statements under "Business and Properties—Properties" in the Prospectus as to ownership and leases of real property are correct, and (B) (in lieu of covering the matters referred to in paragraph (a)(i)(H) above) all documents required to be filed as exhibits to the Registration Statement have been so filed or incorporated therein by reference and the statements with respect thereto in the Prospectus are accurate and fairly present the information required to be shown.

(b) That, at the time of purchase, the Selling Debentureholder shall furnish to you the opinion (addressed to the Underwriters), in form and substance satisfactory to Counsel for the Underwriters, with reproduced copies thereof for each of the other Underwriters, of Morrison, Foerster, Holloway, Clinton & Clark, Counsel for the Selling Debentureholder, stating in substance that:

(A) the Selling Debentureholder has valid marketable title to the Debentures and has the legal right and power to enter into this agreement and to sell, transfer and deliver the Debentures to the Underwriters in the manner provided in this agreement; and delivery of the Debentures pursuant hereto has effectively transferred marketable title to the Debentures free and clear of any claim, lien, encumbrance or equity;

(B) this agreement has been duly authorized, executed and delivered by the Selling Debentureholder and is a valid and binding agreement of the Selling Debentureholder, except that such counsel need express no opinion as to the enforceability of the indemnification provisions;

(C) the execution, delivery and performance of this agreement and the consummation of the transactions contemplated herein, do not and will not conflict with any provision of the Articles of Incorporation or the By-Laws of the Selling Debentureholder or conflict with or result in a breach of any provision of any agreement or other instrument, known to such counsel, to which the Selling Debentureholder is a party or by which the Selling Debentureholder or its properties are bound;

(D) to the best of the knowledge and information of such counsel, such parts of the Registration Statement and the Prospectus as relate to the Selling Debentureholder and are based on information furnished to the Company by or on behalf of the Selling Debentureholder expressly for use in the Registration Statement or the Prospectus do not contain any untrue statement of a material

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fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading; and

(E) the Selling Debentureholder has been duly incorporated, and is validly existing as a corporation in good standing under the laws of California.

(e) That, at the time of purchase, the Company shall furnish to you a letter (addressed to the Underwriters, the Selling Debentureholder and the Company), together with reproduced copies thereof for each of the other Underwriters, of Haskins & Sells to the effect that (i) in their opinion the financial statements and schedules examined or checked as to compilation by them and included or incorporated by reference in the Registration Statement and the Prospectus comply as to form in all material respects with the applicable accounting requirements of the Act, (ii) based on a limited review (but not an examination in accordance with generally accepted auditing standards), including consultations with certain officials responsible for accounting matters of the Company as to the period subsequent to March 31, 1969, nothing has come to their attention which in their judgment would indicate that during the period from March 31, 1969 to a specified date not more than five days prior to the time of purchase there has been any material adverse change in the consolidated financial position or the consolidated results of operations of the Company and its consolidated subsidiaries or any material change in the capitalization of the Company and its consolidated subsidiaries except as set forth in or contemplated by the Registration Statement and the Prospectus, (iii) based on a limited review (but not an examination in accordance with generally accepted auditing standards) of the financial statements of the Company and its consolidated subsidiaries for the three month periods ended June 30, 1968 and 1969 and for the period from March 31, 1969 to the date of the latest available interim financial statements, including consultations with officials responsible for financial and accounting matters of the Company and its consolidated subsidiaries, nothing has come to their attention which in their judgment would indicate that the unaudited results of operations for the three month periods ended June 30, 1968 and 1969, included in the Prospectus following the footnotes to Earnings, were not prepared in conformity with accounting principles consistent in all material respects with those followed in the preparation of the audited statements of consolidated income included in the Prospectus or would require any adjustment necessary for a fair statement of such results of operations, (iv) the information of a financial or statistical nature set forth under the captions "Capitalization", "Business and Properties", "Management", "Stock Options" and "Description of Common Stock" in the Prospectus and specified in such letter, to the extent such information is derived from the general accounting records of the Company, properly and accurately sets forth, in all material respects, the information purported to be shown and (v) the pro forma condensed balance sheet and pro forma condensed earnings set forth in the Prospectus under the caption "Pro Forma Financial Information" which give effect to the acquisition by the Company of assets of Provident Securities Company have been properly compiled on the bases described in the Prospectus, and based on procedures specified in such letter they have no reason to believe that such information is not set forth accurately in all material respects on the bases described in the Prospectus.

(d) That, at the time of purchase, the Underwriters shall receive the favorable opinion of Counsel for the Underwriters as to the matters referred to under subheadings (C), (D), (E), (F), (G), (L) and (M) of the foregoing paragraph (a) (i) of this Section 5, except that such counsel need not express an opinion on the outstanding common stock of the Company.

(e) That the Registration Statement shall become effective at or before 7 P. M., on the date of this agreement, unless a later time (but not later than 7 P. M., on the first full business day after the date of this agreement) shall be agreed to by you in writing.

(f) That no amendment or supplement to the Registration Statement or the Prospectus shall be filed prior to the time the Registration Statement becomes effective to which you object in writing.

(g) That, prior to the time of purchase, (i) no stop order with respect to the effectiveness of the Registration Statement shall have been issued under the Act or proceedings initiated under Section 8(d) or 8(e) of the Act; and (ii) neither the Registration Statement nor the Prospectus, as amended or as supplemented, shall contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

(h) That, between the time of execution of this agreement and the time of purchase, there shall occur no material and unfavorable change, financial or otherwise (other than as referred to in the Registration Statement and the Prospectus), in the condition of the Company and its consolidated subsidiaries as a whole; and the Company will, at the time of purchase, deliver to you a certificate of two of its executive officers to the foregoing effect.

(i) That, prior to the time of purchase, the shares of common stock of the Company issuable upon conversion of the Debentures shall have been authorized for listing, on notice of issuance, on the New York Stock Exchange.

(j) That the Company and the Selling Debentureholder shall perform such of their respective obligations under this agreement as are to be performed by the terms hereof at or before the time of purchase.

6. Conditions of the Selling Debentureholder's Obligations: The obligations of the Selling Debentureholder under Sections 1 and 2 hereof are subject to the following conditions:

(a) That the Registration Statement shall become effective at or before 7 P. M., on the date of this agreement, unless a later time (but not later than 7 P. M., on the first full business day after the date of this agreement) shall be agreed to by the Selling Debentureholder in writing.

(b) That, prior to the time of purchase, (i) no stop order with respect to the effectiveness of the Registration Statement shall have been issued under the Act or proceedings initiated under Section 8(d) or 8(e) of the Act; and (ii) neither the Registration Statement nor the Prospectus, as amended or as supplemented, shall contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

(c) That, at the time of purchase, the Company shall furnish to the Selling Debentureholder the opinion (addressed to the Selling Debentureholder) of Counsel for the Company covering the matters referred to in paragraph 5(a)(i) above, and the letter (addressed to the Selling Debentureholder) of Haskins & Sells covering the matters referred to in paragraph 5(c) above.

7. **Termination of Agreement:** This agreement may be terminated, prior to the time the Registration Statement becomes effective, by you or by any group of Underwriters which has agreed hereunder to purchase in the aggregate at least 50% of the Debentures, if, in your judgment or in the judgment of any such group of Underwriters, there shall have occurred a material unfavorable change in political, financial or economic conditions generally.

If you or any group of Underwriters elect to terminate this agreement as provided in this Section 7, the Company, the Selling Debentureholder and each other Underwriter shall be notified promptly by letter or telegram.

If the sale to the Underwriters of the Debentures, as in this agreement contemplated, is not carried out by the Underwriters for any reason permitted under this agreement or if such sale is not carried out because the Selling Debentureholder or the Company shall be unable to comply with any of the terms of this agreement, neither the Selling Debentureholder nor the Company shall be under any obligation or liability under this agreement (except to the extent provided in Section 4 hereof) and the Underwriters shall be under no obligation or liability to the Selling Debentureholder or the Company or to one another under this agreement.

8. **Increase in Underwriters' Commitments:** If any Underwriter shall default in its obligation to take up and pay for the Debentures to be purchased by it hereunder and if the principal amount of Debentures which all Underwriters so defaulting shall have agreed but failed to take up and pay for does not exceed $2,500,000, non-defaulting Underwriters shall take up and pay for (in addition to the principal amount of Debentures they are obligated to purchase pursuant to Section 1 hereof) the principal amount of Debentures agreed to be purchased by all such defaulting Underwriters, as hereinafter provided. Such principal amount of Debentures shall be taken up and paid for by such non-defaulting Underwriter or Underwriters in such amount or amounts as you may designate with the consent of each Underwriter so designated or, in the event no such designation is made, such principal amount of Debentures shall be taken up and paid for by all non-defaulting Underwriters pro rata in proportion to the principal amount of Debentures set opposite the names of such non-defaulting Underwriters in Schedule A.

Without relieving any defaulting Underwriter from its obligations hereunder, the Selling Debentureholder agrees with the non-defaulting Underwriters that it will not sell any Debentures hereunder unless all of the Debentures are purchased by the Underwriters (or by substituted underwriters selected by you with the approval of the Selling Debentureholder or selected by the Selling Debentureholder with your approval).

The term Underwriter as used in this agreement shall refer to and include any underwriter substituted under this Section 8 with like effect as if such substituted underwriter had originally been named in Schedule A.

9. **Warranties and Representations of and Indemnity by the Selling Debentureholder:** (a) The Selling Debentureholder warrants and represents that:

(i) the Selling Debentureholder has the legal right, power and authority to enter into this agreement and owns or holds and at the time of purchase will own or hold, free and clear of all liens, claims, encumbrances and equities, the

Debentures, and that at such time there will be no restrictions upon the right of the Selling Debentureholder to sell the Debentures to the Underwriters hereunder and that the Selling Debentureholder will have full legal right, power, authorization and approval required by law to sell, assign and transfer the Debentures to the Underwriters in the manner provided in this agreement; and

(ii) the information furnished in writing by the Selling Debentureholder to the Company expressly for use with reference to such Selling Debentureholder in the Registration Statement or the Prospectus does not contain an untrue statement of a material fact and does not omit to state a material fact in connection with such information required to be stated in the Registration Statement or the Prospectus or necessary to make such information not misleading.

(b) The Selling Debentureholder agrees to indemnify and hold harmless each Underwriter and any person who controls any Underwriter within the meaning of Section 15 of the Act, and the Company, its directors and officers and any person who controls the Company within the meaning of Section 15 of the Act, from and against any loss, expense, liability or claim which arises out of or is based upon any alleged untrue statement of a material fact contained in information furnished in writing by the Selling Debentureholder to the Company expressly for use in the Registration Statement (or in the Registration Statement as amended by any post-effective amendment thereof), or in a Prospectus (the term Prospectus for the purpose of this Section 9(b) being deemed to include the Preliminary Prospectus, the Prospectus and the Prospectus as amended or supplemented if the Company shall furnish to the Underwriters an amended Prospectus or amendments or supplements to the Prospectus after the effective date of the Registration Statement), or arises out of or is based upon any alleged omission to state a material fact in connection with such information required to be stated in such Registration Statement or in such Prospectus or necessary to make such information not misleading.

If any action is brought against an Underwriter, the Company or a controlling person in respect of which indemnity may be sought against the Selling Debentureholder pursuant to the foregoing paragraph, such Underwriter, the Company or such controlling person shall promptly notify the Selling Debentureholder in writing of the institution of such action and the Selling Debentureholder shall assume the defense of such action, including the employment of counsel (who shall be satisfactory to such Underwriter or the Company) and payment of expenses. Such Underwriter, the Company or such controlling person shall bear the fees and expenses of any additional counsel retained by him. The indemnity agreement on the part of the Selling Debentureholder contained in this Section 9(b) and the warranties and representations of the Selling Debentureholder contained in this agreement shall remain in full force and effect regardless of any investigation made by or on behalf of any Underwriter, the Company or any controlling person, and shall survive the issuance and delivery of the Debentures. The Selling Debentureholder agrees promptly to notify the Underwriters and the Company of the commencement of any litigation or proceedings against the Selling Debentureholder in connection with the issue and sale of the Debentures or with such Registration Statement or Prospectus.

10. Warranties and Representations of and Indemnity by the Company: (a) The Company warrants and represents that when the Registration Statement becomes effective the Registration Statement and the Prospectus will comply with the provisions of the Act, and that neither thereof will contain any untrue statement of a

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material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; provided, however, that the Company makes no warranty or representation with respect to any statement contained in, or any matter omitted from, the Registration Statement or the Prospectus in reliance upon and in conformity with information furnished in writing by any Underwriter or by the Selling Debentureholder to the Company expressly for use in the Registration Statement or Prospectus.

(b) The Company agrees to indemnify and hold harmless each Underwriter and any person who controls any Underwriter within the meaning of Section 15 of the Act, and the Selling Debentureholder and any person who controls the Selling Debentureholder within the meaning of Section 15 of the Act, from and against any loss, expense, liability or claim which arises out of or is based upon any alleged untrue statement of a material fact in the Registration Statement (or in the Registration Statement as amended by any post-effective amendment thereof) or in a Prospectus (the term Prospectus for the purpose of this Section 10(b) being deemed to include the Preliminary Prospectus, the Prospectus, the Prospectus as amended or supplemented if the Company shall furnish to the Underwriters an amended Prospectus or amendments or supplements to the Prospectus after the effective date of the Registration Statement and any other prospectus, as that term is defined in Section 2(10) of the Act, of the Company), or arises out of or is based upon any alleged omission to state a material fact required to be stated in either such Registration Statement or in such Prospectus or necessary to make the statements made therein not misleading. The foregoing shall not cover any such loss, expense, liability or claim, however, which arises out of or is based upon any alleged untrue statement of a material fact contained in information furnished in writing by any Underwriter or by the Selling Debentureholder to the Company expressly for use in such Registration Statement or in such Prospectus or arises out of or is based upon any alleged omission to state a material fact in connection with such information required to be stated in such Registration Statement or in such Prospectus or necessary to make such information not misleading.

If any action is brought against an Underwriter, the Selling Debentureholder or a controlling person in respect of which indemnity may be sought against the Company pursuant to the foregoing paragraph, such Underwriter or the Selling Debentureholder or such controlling person shall promptly notify the Company in writing of the institution of such action and the Company shall assume the defense of such action, including the employment of counsel (who shall be satisfactory to such Underwriter or the Selling Debentureholder) and payment of expenses. Such Underwriter, Selling Debentureholder or controlling person shall bear the fees and expenses of any additional counsel retained by him. The Company's indemnity agreement contained in this Section 10(b) and the warranties and representations of the Company contained in this agreement shall remain in full force and effect regardless of any investigation made by or on behalf of any Underwriter, the Selling Debentureholder or any controlling person, and shall survive the issuance and delivery of the Debentures. The Company agrees promptly to notify the Underwriters and the Selling Debentureholder of the commencement of any litigation or proceedings against the Company or any of its officers or directors in connection with the issue and sale of the Debentures or with such Registration Statement or Prospectus.

11. Warranties and Representations of and Indemnity by Underwriters: (a) Each Underwriter warrants and represents that the information furnished in writing by such Underwriter to the Company expressly for use in the Registration Statement or the Prospectus does not contain an untrue statement of a material fact and does not omit to state a material fact in connection with such information required to be stated in the Registration Statement or the Prospectus or necessary to make such information not misleading. Each Underwriter hereby furnishes to the Company in writing expressly for use therein, the statement in the first sentence of Item 22 of the Registration Statement and the statements relating to offerings of Debentures by Underwriters in the section "Underwriting" in, or on the cover page of, the Prospectus.

(b) Each Underwriter severally agrees to indemnify and hold harmless the Company, its directors and officers and any person who controls the Company within the meaning of Section 15 of the Act and the Selling Debentureholder and any person who controls the Selling Debentureholder within the meaning of Section 15 of the Act, from and against any loss, expense, liability or claim which arises out of or is based upon any alleged untrue statement of a material fact contained in information furnished in writing by such Underwriter to the Company expressly for use in the Registration Statement (or in the Registration Statement as amended by any post-effective amendment thereof), or in a Prospectus (the term Prospectus for the purpose of this Section 11(b) being deemed to include the Preliminary Prospectus, the Prospectus and the Prospectus as amended or supplemented if the Company shall furnish to the Underwriters an amended Prospectus or amendments or supplements to the Prospectus after the effective date of the Registration Statement), or arises out of or is based upon any alleged omission to state a material fact in connection with such information required to be stated in such Registration Statement or in such Prospectus or necessary to make such information not misleading.

If any action is brought against the Company, the Selling Debentureholder or a controlling person in respect of which indemnity may be sought against any Underwriter pursuant to the foregoing paragraph, the Company, the Selling Debentureholder or such controlling person shall promptly notify such Underwriter in writing of the institution of such action and such Underwriter shall assume the defense of such action, including the employment of counsel (who shall be satisfactory to the Company or the Selling Debentureholder) and payment of expenses. The Company, the Selling Debentureholder or such controlling person shall bear the fees and expenses of any additional counsel retained by it. The indemnity agreement on the part of each Underwriter contained in this Section 11(b) and the warranties and representations of such Underwriter contained in this agreement shall remain in full force and effect regardless of any investigation made by or on behalf of the Company, the Selling Debentureholder or such controlling person, and shall survive the issuance and delivery of the Debentures. Each Underwriter agrees promptly to notify the Company and the Selling Debentureholder of the commencement of any litigation or proceedings against such Underwriter in connection with the issue and sale of the Debentures or with such Registration Statement or Prospectus.

12. Parties at Interest: The agreement herein set forth has been and is made solely for the benefit of the Underwriters, the Company, the Selling Debentureholder and the controlling persons, directors and officers referred to in Sections 9,

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10 and 11 hereof and their respective successors, assigns, executors and administrators, and no other person shall acquire or have any right under or by virtue of this agreement.

The Section headings in this agreement have been inserted as a matter of convenience of reference and are not a part of this agreement.

If the foregoing correctly sets forth the understanding between the Company, the Selling Debentureholder, and the Underwriters, please so indicate in the space provided below for the purpose, whereupon this letter and your acceptance shall constitute a binding agreement between the Company, the Selling Debentureholder, and the Underwriters, severally.

Very truly yours,

FOREMOST-McKESSON, INC.

By _____
Vice President

PROVIDENT SECURITIES COMPANY

By _____
President

ACCEPTED as of the date first above written,
on behalf of itself and the other several
Underwriters named in Schedule A.

DILLON, READ & Co. INC.

By _____
Vice President

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Schedule A

Name of Underwriter	Principal Amount of Debentures
Dillon, Read & Co. Inc.	$ 2,500,000
Bache & Co. Incorporated	550,000
J. Barth & Co.	350,000
Bateman Eichler, Hill Richards Incorporated	350,000
Birr, Wilson & Co., Inc.	250,000
Blyth & Co., Inc.	900,000
Cantor, Fitzgerald & Co., Inc.	250,000
Clark, Dodge & Co. Incorporated	550,000
Crowell, Weedon & Co.	250,000
Dominick & Dominick, Incorporated	550,000
Drexel Harriman Ripley, Incorporated	750,000
Francis I. duPont, A. C. Allyn, Inc.	550,000
Eastman Dillon, Union Securities & Co.	750,000
Equitable Securities, Morton & Co. Incorporated	550,000
The First Boston Corporation	900,000
Glore Forgan, Wm. R. Staats Inc.	900,000
Goldman, Sachs & Co.	750,000
Goodbody & Co.	550,000
Hayden, Stone Incorporated	550,000
Hornblower & Weeks-Hemphill, Noyes	750,000
E. F. Hutton & Company Inc.	550,000
Johnston, Lemon & Co.	450,000
Kuhn, Loeb & Co.	900,000
Lehman Brothers	750,000
Irving Lundborg & Co.	250,000
Merrill Lynch, Pierce, Fenner & Smith Incorporated	750,000
Mitchum, Jones & Templeton Incorporated	250,000
Morgan Stanley & Co.	900,000
Paine, Webber, Jackson & Curtis	750,000
Reynolds & Co.	550,000
Riter & Co.	450,000
Salomon Brothers & Hutzler	750,000
Shearson, Hammill & Co. Incorporated	550,000
Shuman, Agnew & Co.	350,000
Smith, Barney & Co. Incorporated	750,000
Stern, Frank, Meyer & Fox Incorporated	250,000
Sutro & Co.	250,000
White, Weld & Co.	750,000
Dean Witter & Co. Incorporated	750,000
Wood, Struthers & Winthrop	550,000
Total	$25,000,000

Exhibit W Annexed to Affidavit of Charles de Limur

(Omitted in printing.)

Exhibit X Annexed to Affidavit of Charles de Limur

(Omitted in printing.)

Exhibit Y Annexed to Affidavit of Charles de Limur

(Omitted in printing.)

Exhibit Z Annexed to Affidavit of Charles de Limur

(Omitted in printing.)

Exhibit AA Annexed to Affidavit of Charles de Limur

(Omitted in printing.)

Supplemental Affidavit of Charles de Limur

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-70 460 RHS

[SAME TITLE]

State of California)
City and County of San Francisco) ss.:

CHARLES DE LIMUR, being first duly sworn, deposes and says:

I make this sworn statement as a supplement to my earlier sworn statement in opposition to Foremost-McKesson's motion for partial summary judgment in the above-entitled action and in support of Provident Securities Company's motion for summary judgment on its complaint for declaratory relief.

As President of Provident Securities Company, I was directly involved in negotiations with Foremost-McKesson concerning the value of the assets to be transferred to Foremost by Provident and the aggregate principal amount of Foremost's convertible debentures to be paid to Provident therefor. The following facts are within my own knowledge and if sworn as a witness at trial I can competently testify thereto.

When in late 1968 Provident tentatively decided to liquidate, we had Dillon, Read & Co. prepare a memorandum dated November 6, 1968, evaluating the then current financial structure of Provident in great detail. On January 24, 1969, at my request, Dillon, Read prepared another updated and exhaustive evaluation of Provident's assets. Both of these documents were made available to Foremost

and to its financial advisors at the beginning of negotiations (the two evaluations are attached as Exhibits 1 and 2 to this affidavit and are incorporated herein by reference).

Thereafter and throughout negotiations, we gave Foremost free access to Provident's books and records and to the various real property proposed to be transferred to Foremost. Foremost, with the assistance of Haskins & Sells and Coldwell Banker & Company, made a complete appraisal of all of the assets of Provident including marketable and unmarketable securities and real estate.

Following this, Mr. Purcell of Dillon, Read and I met with representatives of Foremost in Foremost's board of directors' room and went over with them the evaluation of each and every asset of Provident and the various values assigned were vigorously and exhaustively argued until agreement on their value was reached.

Thereafter periodic reports were prepared updating the value of the various assets and the value of the shareholders' equity in Provident and were made available to Foremost. The last of these reports was made immediately prior to the closing of the purchase agreement on October 15, 1969.

As evidence of the exhaustive investigation that Foremost made, I point out that Schedule 1 to the purchase agreement lists various securities which were excluded from the purchase agreement because Foremost decided that they did not want them (see Exh. B to my earlier aff.). To further demonstrate the lengths to which Foremost went, on one occasion Mr. Boyce Smith, treasurer of Foremost, visited Provident's offices to determine whether there was any furniture in the office of value which Foremost might wish to take as part of the assets transferred under the agreement.

In light of these facts, I was surprised in reading Foremost's reply memorandum to see them assert that Provi-

dent had information about the true value of the assets which was not available to Foremost. It is, I believe, fair to say that all information which Provident had about the value of any of the assets transferred to Foremost was made available to Foremost, was exhaustively evaluated and rechecked by Foremost and its advisors and was continually updated until the time of the closing of the transaction and even thereafter.

Dated at San Francisco, California, this 17th day of August, 1971.

Charles de Limur

(Jurat omitted in printing.)

Exhibit 1 Annexed to Supplemental Affidavit of Charles de Limur

Study

November 6, 1968

Provident Securities Company

("Provident")

This preliminary study is made in response to a request by a committee appointed by the Board of Directors of Provident. Its purpose is to evaluate the current structure of Provident and suggest alternative directions Provident might take.

Provident is an investment and real estate company with relatively liquid assets except for a 38.9% interest in Crocker Estate Company ("Crocker Estate"). Its portfolio of securities is diversified except for the Crocker Estate stock and three large holdings, Crocker-Citizens National Bank stock, Texas Instruments stock, and Gulf Resources & Chemical stock (formerly Bunker Hill Co.). Provident is a "personal holding company" for tax purposes. (See Exhibit I)

Crocker Estate Company is primarily a real estate company and owns a portfolio of diversified marketable securities.

Although no Crocker Estate stockholder owns any Provident stock and no individual Provident stockholder owns any Crocker Estate stock, three of the nine members of the Board of Directors of Provident are also members of the Crocker Estate Board of Directors which are eight in number. (See Exhibit II)

A number of possibilities have been suggested as to Provident's future. Without enumerating the many subvariations of the various plans, the principal possibilities may be classified as follows:

1. Provident to continue substantially as it is.

Exhibit 1 Annexed to de Limur Supplemental Affidavit

2. Provident to liquidate.
3. Provident to merge:
   (a) Provident as the surviving corporation to acquire one or more other companies looking to the elimination of its personal holding company status with a view to subsequent issuance of shares to the public.
   (b) Provident not the surviving corporation merging into a large publicly-owned corporation with a ready market for its securities.

Possibility #1—Provident to continue as it is.

The principal problems substantially with Provident continuing as it is lie in the areas of "personal holding company" taxation and the diverse interests and attitudes of shareholders, fiduciaries, and beneficiaries of trusts who do not have the option of selling their stock in the event of disagreement with a policy or policies adopted by a majority of the Board of Directors. (See Exhibit III)

"Personal holding company" taxation forces Provident to distribute all its taxable income other than capital gains. There is imposed a corporate tax of 7.2% on dividend income and 48% on interest and other similar income. The balance of such income wher distributed as dividends by Provident is further subject to taxation at the full personal tax rate applicable to the recipient. It is readily apparent that this double taxation has a profound effect on what Provident can and cannot do, particularly in the area of investing in bonds or debentures convertible or otherwise.

The corporate form of Provident has the additional effect of taxing capital gains at the normal rate without increasing the tax basis of the shareholders. Thus any capital gains realized by Provident would be taxed when

taken, taxed again as ordinary income if paid out as dividends or taxed again as capital gain if Provident were subsequently liquidated. Reference is made to a memorandum dated November 5, 1968, prepared by Shearman & Sterling with regard to the taxation of personal holding companies.

The substantial unrealized capital gains of Provident are of course not taxable until realized. However, it should be recognized that not realizing these gains immobilizes the portfolio. Were Provident to diversify to a portfolio similar to that of a representative investment company, it would have to realize large capital gains and pay substantial taxes estimated at about $4.7 million. (See Exhibit IV)

In regard to estate taxes, there is no reason to suppose that Provident could not repeat the process of reclassifying its common stock into preferred stock and common stock, the preferred stock being redeemable with portfolio securities which could be sold to meet the estate taxes. However, as the Provident stock becomes more widely distributed, this method becomes more impractical and cumbersome and could lead to problems with shareholders who had different interests, particularly as this process reduces liquidity. The principal advantage of Provident as it is with respect to estate taxes lies in the substantial discounts at which its shares have been valued for estate tax purposes.

Provident's ratio of expenses to total investment assets has not been out of line with other similar investment companies over the past six years. (See Exhibit V)

Maintaining Provident in its present corporate form presents not only double taxation problems but problems in connection with investment opportunity and policy.

A large pool of capital has many advantages under certain circumstances. If the purposes of the shareholders are similar, a great many opportunities may be exploited which could not be done were the pool fractionated. Advisers,

technical and investment, etc. can be retained, influential positions could be taken in new enterprises, and substantial borrowing ability utilized.

The effective use of a large pool of capital is, as stated above, dependent on unanimity of shareholder opinion. Suggestions as to expanding Provident's activities in various fields such as real estate or other businesses have not found unified support. Utilization of Provident's credit to back projects entered into by Provident shareholders have met similar problems as well as tax problems. Many shareholders, fiduciaries and beneficiaries have expressed a desire to enter "tax shelter" deals because of their high personal tax brackets. With Provident in its present corporate form this form of investment is not a practical possibility. In addition, as long as the possibility of liquidation of Provident rests in the minds of a significant number of Provident shareholders, investment activity of Provident will be paralyzed insofar as investments of limited liquidity are concerned.

Provident's investment performance as far as its portfolio of marketable common stocks is concerned over the past six years as compared with other similar investment companies falls generally in the same range. The fact that Provident did not do better in this area compared to other companies and various published indexes could be due in large measure to the fact that Provident's situation does inhibit investment mobility. (See Exhibits V, VI, VII)

The continuation of Provident as a personal holding company would in our opinion tend to intensify the divergent view of its shareholders and fiduciaries. Remaindermen and life beneficiaries in some instances have different interests; in some instances fiduciaries have different opinions than the beneficiaries of trusts and not all fiduciaries are agreed on a course of action or the status quo. These differences do not run only to the problem of investment

objectives (e.g. income vs. capital gain) but also to the basic business philosophy which Provident should follow. These differences are so basic and so diverse that we do not believe that the present management or any other management which might be obtained would be accorded undivided support of its Board of Directors. Under such circumstances a clear cut policy line cannot be followed, a circumstance materially adversely affecting the value of Provident as a continuing organization.

Possibility #2—Provident to liquidate.

If Provident were liquidated, its shareholders would become subject to a heavy capital gains tax. Based on the average basis of the Provident shareholders the total tax payable would vary from about $12.3 million to $16.6 million depending on whether Provident were valued at $800 or $1,000 per common share. (See Exhibit VIII) Added to these figures would be the expenses of liquidation and expenses of disposing of both marketable and non-marketable assets. These expenses could be substantial. In addition, the Internal Revenue Service would, of course, reexamine the asset values of Provident perhaps giving rise to estate and other similar problems. There would be a considerable period of time before all assets received on liquidation could be worked into liquid form. Liquid assets would have to be sold to pay tax on the total received in liquidation. In this connection the stock of Crocker Estate held by Provident poses the most difficult problem, which problem will be discussed later in the report.

Liquidation of Provident would relieve the "personal holding company" problem and would to some extent lay to rest the problem of immobility of investment because of unrealized gain. It would also allow the reinvestment of assets by each shareholder or fiduciary in what they con-

sidered their best interest rather than the group as a whole. It may be assumed that some differences in investment philosophy would continue to exist between fiduciaries and beneficiaries of trusts as to the handling of the assets distributed.

Whether or not the shareholders would receive more income and/or build the portfolio faster on their own or by remaining in Provident depends on a number of imponderables including their ability and objectives and the views of the fiduciaries. (See Exhibits IX, X, XI, XII, XIII, XVI)

Liquidation of Provident would require the shareholders to provide for their own investment advice, tax accountants and other services now rendered by Provident. However, there would be nothing to prevent certain former shareholders of Provident in combining into partnerships which performed such services or which undertook ventures in real estate or other areas.

A plan of liquidation would have to be flexible enough to prevent any delay beyond one year. Any such delay would produce disastrous tax results. During the year of liquidation, Provident itself would recognize no gain or loss taxwise; however, prior to that time gains or losses would be Provident's.

The marketable securities present little problem. Large blocks such as the shares of Crocker-Citizens National Bank stock, Texas Instruments and Gulf Resources & Chemical should probably be sold as blocks in an attempt to get a premium above the existing market price. An orderly disposition of the assets is of great importance as a distribution in kind and subsequent selling, one stockholder against another, could prove costly.

The real estate could be sold in whole or in part and failing that be distributed in the form of participations in a partnership or a trust which could in turn operate or

subsequently sell the property. The real estate property could not be spun off in a corporation nor could it be incorporated after liquidation, since this would destroy the capital gain nature of the liquidation. The same entity which held the real estate or a similar vehicle could be formed to hold other non-liquid assets.

The Crocker Estate stock could be distributed to Provident shareholders, either in the form of trust certificates in a voting trust or the shares themselves.

Consideration has been given to a proportionate partial liquidation and to a disproportionate liquidation. The former would result in a very heavy taxation and loss of liquidity. A disproportionate liquidation would shrink Provident's assets making it a smaller company and relatively more expensive to run and would involve complicated valuation problems with respect to the non-liquid assets, particularly in view of the large number of people involved. If it were assured that those shareholders who wished to get out of Provident could do so completely, there might be some reason to pursue the matter as Provident, although smaller, would then have the advantage of a unified body of shareholders. However, if fiduciaries and beneficiaries of trusts and shareholders were of different opinions, the conflicts now present in Provident would still be present.

Possibility #3—Provident to merge.

The merger route would be advantageous as compared to liquidation provided that it be accomplished without the sacrifice of values inherent in Provident and provided further that the end result would be a thoroughly marketable security of proper investment quality which could be liquidated by the individual stockholders at will. Such a merger would in effect allow each stockholder to control

the timing of the capital gains taxes he will have to pay rather than accepting them in one lump at the date of liquidation.

It must be recognized that any merger candidate would take into account the large unrealized capital gains in Provident when determining the terms of the merger. (See Exhibit XV)

It is recognized that when contemplating a merger whether or not Provident would end up as the surviving corporation, the large minority holding in Crocker Estate creates a substantial problem. It has been suggested in this connection that as a first step in a merger program Crocker Estate be merged into Provident.

While it is evident that a merger of Provident and Crocker Estate would provide substantial additional resources to Crocker Estate, it would, by the same token, reduce the liquidity of Provident.

Because of the above and because such a merger would result in the introduction of more shareholders in Provident thus intensifying the diversity of interest now present, we would not recommend such a merger unless it should become an agreed condition to an agreement of merger with another company, the combination of which would provide the quality and liquidity above-mentioned as a prerequisite. In fact, because of the already existing diversity of interest we doubt, as a practical matter, that any merger between Provident and Crocker Estate could be successfully negotiated under any conditions except the one above outlined.

3(a) Provident as the surviving corporation to acquire one or more other companies looking to the elimination of its personal holding company status and with a view to the subsequent issuance of shares to the public.

The successful conclusion of a program such as this, in our opinion, would require certain basic elements which

we have already stated could not be accomplished without the existence of a management thoroughly trained in this highly competitive area, able to act promptly and decisively with the complete confidence and unanimous support of its directors, and willing to take risks of a nature not common to investment companies particularly where fiduciaries are concerned. The very reasons which led us to believe that Provident should not continue as is militate also against the successful embarkation by Provident on this course.

3(b) Provident not the surviving corporation merging into a large publicly-owned corporation with a ready market for its securities.

It has been suggested that a merger of this nature could be effected with a large and well-known investment company or with an industrial company with proper quality and size.

Merger with a large investment company

Such a merger might well be explored but it should be recognized that it would involve special problems not inherent in a merger with an industrial corporation. One immediate and obvious problem in Provident is the existence of the real estate properties and the Crocker Estate stock which could not be distributed separately to shareholders in connection with a merger for tax reasons. Also, it is questionable whether a diversified investment company would desire or would be allowed by the Securities and Exchange Commission to acquire the Provident real estate assets or the Crocker Estate stock. Moreover, the terms of any such merger would be subject to the approval of the Securities and Exchange Commission including the ratio of exchange as related to the relative portfolio values

after considering the tax liabilities built into each portfolio's unrealized gains. In addition, we are informed by counsel that a tax ruling would in all probability not be obtainable in advance with respect to the non-taxability of the exchange. (See Exhibit XIV)

It has been mentioned that perhaps Provident should become a larger investment company with new shares issued to the public. This course of action for Provident is regarded as impractical. The problems inherent in this possibility are much the same as if Provident were to seek a merger with a larger investment company, i.e. Provident's holding of real estate and the Crocker Estate stock. In addition, the large unrealized capital gains would pose a problem as to what shares in Provident were actually worth. (See Exhibit V)

Merger with a corporation other than an investment company

It appears to us that this possibility offers the most real likelihood of accomplishment as an alternative to liquidation.

As stated above, the merger candidate would necessarily have a management in which the stockholders of Provident could have confidence. The merger candidate should be of sufficient quality so that the Provident stockholders, including the fiduciaries, would be justified in retaining whatever portions of the stock received in exchange as might seem desirable in order to postpone or avoid capital gains taxes.

Also as stated above, the combination of real estate holdings and the minority ownership in Crocker Estate together with the large portfolio of liquid securities will create some obvious problems in locating the most likely candidates. In this connection, it should be stated that we

have not been authorized to seek candidates, nor have we explored merger prospects in any way other than the review of certain candidates in our office. However, we do feel from this review that there may well be one or more suitable companies which might become interested in such a merger on an acceptable basis.

Crocker Estate Company

Provident's interest in Crocker Estate (38.9%) is the most difficult aspect of either merging Provident or liquidating it.

To solve the problems of Provident and Crocker Estate at the same time in our opinion is neither practical nor feasible. An attempt to do so will, in all probability, prevent any effective action to solve the problems of either.

If Provident is liquidated there are the problems of (1) valuation and (2) the future of Crocker Estate and control of it. If Provident is merged, what value would be placed on the minority interest in Crocker Estate? No one can reasonably predict the answer to this question.

If Provident were liquidated, its shareholders would have a very substantial tax to pay on Crocker Estate shares and would have to liquidate other assets. It is quite important that Crocker Estate shares not be involved in any transaction which would be the equivalent of an arms-length sale and purchase. This would put the maximum value on the shares and extract the maximum tax.

Control of Crocker Estate upon liquidation of Provident is another major area to be considered. Crocker Estate at present has basically three groups of shareholders: Provident, the eastern branch of the Crocker family, and St. Francis Associates and affiliates. If disturbance of the present balance of power in Crocker Estate is deemed undesirable, the Crocker Estate shares could be placed in a voting trust upon liquidation of Provident.

Various suggestions have been made for the disposition of Provident's interest in Crocker Estate: (a) disproportionate liquidation of Crocker Estate, (b) liquidation of Crocker Estate into undivided interests, interests in a trust or partnership, (c) assuming Provident continues as it is, payment of dividends to its shareholders in Crocker Estate shares and (d) the purchase of additional shares of Crocker Estate by Provident thus giving Provident clear-cut control of Crocker Estate.

None of these alternate courses are considered acceptable at the present time and for the following reasons:

(a) Disproportionate liquidation would require a very complicated trade out among a number of people and perhaps could not be accomplished since any one disaffected shareholder could block the whole transaction.

(b) Liquidation of Crocker Estate into undivided interests or interests in a trust would also pose a number of questions. Crocker Estate has a considerable amount of debt and a large amount of valuable real estate, the full value of which can probably be realized only by the expenditure of large amounts of capital. Once liquidated Crocker Estate cannot be reincorporated and thus, for it to continue its current activity, some form must be devised (probably a partnership) which is empowered to honor large amounts of money—again a complicating factor better left until after Provident's problems have been solved.

(c) The payment of dividends on Provident shares in Crocker Estate shares, assuming Provident stays as is, would have two important tax effects (1) the value of the shares paid out would be taxed as income and (2) the shares would attain tax basis equivalent to the value taxed as income. The Crocker Estate shares are not liquid and although the cash dividend paid on them is partially tax free, other funds would be required to pay the tax. While

Provident shareholders would get an increase in basis for their Crocker Estate stock to the extent it was paid out as income less the amount of tax free dividend, other shareholders of Crocker Estate would experience a continually reducing basis.

(d) Purchase of an additional interest in Crocker Estate by Provident would allow Provident to deliver control to a merger partner; however, it would reduce Provident's liquidity and greatly increase the difficulties in liquidating Provident.

As noted above, the liquidation of Provident would have perhaps only one effect on Crocker Estate—that of a shift in control. Crocker Estate could still be sold, merged or liquidated. The development of the Crocker Estate properties and the passing of maximum benefits to the Crocker Estate stockholders is a very complex problem and will probably take years to work out. Much would depend on the direction Crocker Estate wished to pursue and on future developments, such as: the commercial success of the Crocker Building, the action taken with respect to the Visitation property, the Suburban Realty Co. investment and the eventual outcome of the Westbay Community Associates project. The success, or lack of success, of Crocker Estate's activities will be dependent primarily on real estate management skills of the highest order and astute financial planning. As with Provident, retaining such management would require confidence of the shareholders and full cooperation of the Board of Directors.

Summary and Conclusions

In light of the reasons set forth in the preceding report, we have reluctantly been forced to the conclusion that Provident should not continue as is. We have concluded that among all of the alternatives which have come under

our consideration the one most measurable and the one which appears most feasible and acceptable is the liquidation of Provident.

However, it is our opinion obtained from a preliminary review within our office that a merger into a large operating company on a satisfactory basis might be concluded and we thus recommend that an effort be made in this direction before taking any steps to liquidate.

It is our understanding that for various reasons any plan which could be construed as a plan of liquidation should not be adopted for some period in the future. It is our recommendation that this period be utilized to make an aggressive search for a suitable merger candidate.

In connection with this search we recommend that you employ a firm or firms of investment bankers experienced in this area, not only to search for suitable candidates on your behalf but also to negotiate and analyze on your behalf any offers which may result from such a search or which may come in from other sources once it is known that such a search is under way.

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Exhibit 2 Annexed to Supplemental Affidavit of Charles de Limur

(Omitted in printing.)

Opinion of the United States District Court for the Northern District of California

(Appears at page 30a of the Petition for Certiorari.)

Judgment of the United States District Court for the Northern District of California

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-70 460 R.H.S.

PROVIDENT SECURITIES COMPANY,
a California corporation,

Plaintiff,

vs.

FOREMOST-McKESSON, INC.,
a Maryland corporation,

Defendant.

JUDGMENT

The motion of defendant and counterclaimant Foremost-McKesson, Inc. for partial summary judgment and the motion of plaintiff and counterdefendant Provident Securities Company for summary judgment having come on for hearing before the Honorable Robert H. Schnacke, Judge of the United States District Court for the Northern District of California on August 18, 1971, the Court having examined the pleadings, the affidavits, admissions, interrogatory answers and all exhibits submitted and having read and heard the arguments of counsel, and being fully advised herein,

Judgment

It is hereby ORDERED, ADJUDGED and DECREED that:

1. Provident Securities Company has no liability under Section 16(b) of the Securities Exchange Act of 1934 for the sale of Foremost-McKesson, Inc. convertible subordinated debentures in 1969.

2. The motion for partial summary judgment of Foremost-McKesson, Inc. is hereby denied, and the motion for summary judgment of Provident Securities Company is hereby granted; and

3. Plaintiff and counterdefendant shall receive its costs of suit herein.

Dated: Sep. 29, 1971

Robert H. Schnacke

Judge of the United States District Court

Submitted by

PILLSBURY, MADISON & SUTRO

By John B. Bates

John B. Bates

Attorneys for Plaintiff and Counterdefendant Provident Securities Company

Approved as to form

LANDELS, RIPLEY & DIAMOND

By Philip E. Diamond

Philip E. Diamond

Attorneys for Defendant and Counterclaimant Foremost-McKesson, Inc.

Opinion of the United States Court of Appeals for the Ninth Circuit

(Appears at page 1a of the Petition for Certiorari.)

Judgment of the United States Court of Appeals for the Ninth Circuit

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

No. 71-2965 DC C-70-460

PROVIDENT SECURITIES COMPANY,
a California corporation,

Plaintiff-Appellee,

vs.

FOREMOST-McKESSON, INC.,
a Maryland corporation,

Defendant-Appellant.

APPEAL from the United States District Court for the Northern District of California.

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the Northern District of California and was duly submitted.

Judgment

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court, that the judgment of the said District Court in this Cause be, and hereby is affirmed.

[SEAL]

A True Copy
Attest
Mar 4 1975
Emil E. Melfi, Jr., Clerk
by Ray Hewitt
Ray Hewitt, Senior Deputy

Filed and entered September 19, 1974